

HOUSE No. 4829

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, June 10, 2008.

The committee of conference on the disagreeing votes of the two branches with reference to the Senate amendments (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2556; and striking out the emergency preamble and inserting in place thereof the following emergency preamble:

“Whereas, the deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the immediate capital improvement needs of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”) of the House Bill providing for the investment in and expansion of the life sciences industry in the Commonwealth (House, No. 4554), reports the accompanying bill (House, No. 4829).

For the committee,

On the part of the House:

DANIEL E. BOSLEY

MICHAEL J. RODRIGUES

BRADFORD HILL

On the part of the Senate:

JOHN A. HART, JR.

STEPHEN M. BREWER

The Commonwealth of Massachusetts

In the Year Two Thousand and Eight.

AN ACT PROVIDING FOR THE INVESTMENT IN AND EXPANSION OF THE LIFE
SCIENCES INDUSTRY IN THE COMMONWEALTH.

1 *Whereas*, The deferred operation of this act would tend to
2 defeat its purpose, which is to provide forthwith for the immediate
3 investment in and expansion of the life sciences in the common-
4 wealth, therefore it is hereby declared to be an emergency law,
5 necessary for the immediate preservation of the public
6 convenience.

*Be it enacted by the Senate and House of Representatives in General
Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. To provide for supplementing certain items in the
2 general appropriation act and other appropriation acts for fiscal
3 year 2008, the sums set forth in section 2 are hereby appropriated
4 from the General Fund unless specifically designated otherwise in
5 this act or in those appropriation acts, for the several purposes and
6 subject to the conditions specified in this act or in those appropri-
7 ation acts, and subject to the laws regulating the disbursement of
8 public funds for the fiscal year ending June 30, 2008; provided,
9 however that notwithstanding any general or special law to the
10 contrary, appropriations made in this act shall not revert and shall
11 be available for expenditure until June 30, 2009. These sums shall
12 be in addition to any amounts previously appropriated and made
13 available for the purposes of those items.

1 NO SECTION 2.

1 SECTION 2A.

EXECUTIVE OFFICE OF
ADMINISTRATION AND FINANCE.

Small Business Capital Access Program.

1599-7107	For a capital access reserve to provide loan guarantees to small businesses pursuant to section 57 of chapter 23A of the General Laws	5,000,000
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1 SECTION 2B. To provide for a program of infrastructure
2 development, improvements and various capital investments, the
3 sums set forth in this section for the several purposes and subject
4 to the conditions specified in this act, are hereby made available,
5 subject to the laws regulating the disbursement of public funds
6 and approval thereof.

EXECUTIVE OFFICE OF
HOUSING AND ECONOMIC DEVELOPMENT.

Massachusetts Life Sciences Center.

7002-0015	For the Massachusetts Life Sciences Investment Fund established by section 6 of chapter 23I of the General Laws; provided, however, that not less than \$12,900,000 shall be expended for and used to assist in water and waste water infrastructure improvements for the proposed cell culture manufacturing facility and purification plant containing office and lab facilities in the town of Framingham; provided, further, that not less than \$12,600,000 shall be expended for the construction of supporting infrastructure, comprised of local arterial and connector roads for the I-93 interchange in the towns of Andover, Wilmington and Tewksbury; provided, further, that not less than \$6,500,000 shall be expended for the design, construction and development for a life science incubator building at the William Stanley Business Park in the city of Pittsfield; provided, further, that not less than \$10,000,000 shall be expended for a new nano and biomanufacturing facility at the University of Massachusetts at Lowell; provided, further, that \$5,500,000 shall be appropriated to the Baystate Medical Center for the purpose of executing a lease agreement with the Pioneer Valley Life Sciences Institute in the city of Springfield for costs associated with the capital expansion of a life sciences incubator; provided, further, that not less than \$1,100,000 shall be expended for the purchase and conversion of 3 vehicles into mobile science laboratories to support biotechnology education initiatives of the Massachusetts Academy for Life Sciences established by subsection (c) of section 2MMM of chapter 29 of the General Laws; provided, further, that said mobile science laboratories shall advance the goals of the Massachusetts Academy for Life Sciences; provided, further, that funds for those purposes shall be provided through a contract with the Massachusetts Biotechnology Education	
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Foundation to provide grants, in consultation with the board of higher education, to public and private institutions of higher learning to purchase and convert vehicles into mobile science laboratories; provided, further, that each vehicle shall be fueled with an alternative fuel, as defined in 42 U.S.C. section 13211; provided, further, that amounts expended shall include the cost of vehicles, equipment, furniture and other costs associated with the conversion of the vehicles into mobile science laboratories; provided, further, that all 3 mobile science laboratories shall be owned and operated by each participating institution of higher learning and assigned to a specific region of the commonwealth, as designated by the Massachusetts Academy for Life Sciences, in consultation with each institution of higher learning; provided, further, that the designated regions shall not overlap; provided, further, that not less than \$9,500,000 shall be expended for construction and capital improvements at the Tufts University Cummings School of Veterinary Medicine New England Regional Biosafety Laboratory to improve public health, protect public safety, improve science education and stimulate economic development by providing the opportunity to translate laboratory discoveries into viable vaccines, therapies and cures for emerging infectious diseases and bioterrorist threats; provided, further, that not less than \$10,000,000 shall be expended for construction, renovations and infrastructure improvements for the Marine Biological Laboratory located in Woods Hole; provided, further, that said Marine Biological Laboratory shall collaborate with the Regional Technology Development Corporation of Cape Cod and the University of Massachusetts at Dartmouth to create and support a Center for Regenerative Biology and Medicine located at said Marine Biological Laboratory to develop commercial marine technology, provide research and development for life sciences including, but not limited to, marine-based stem cell research, and expand life science and marine technology education; provided, further, that not less than \$5,000,000 shall be expended for the design, construction, development and related infrastructure improvements for a regional incubation center for life science initiatives to be located in the city of New Bedford and operated in conjunction with the University of Massachusetts at Dartmouth and Bristol Community College; provided, further, that not less than \$5,000,000 shall be expended for the design, construction, development and related infrastructure improvements for a life sciences center which shall be located at the former Paul A. Dever State School in the city of Taunton and managed by a board of directors consisting of 13 members: 1 of whom shall be the chancellor of the University of Massachusetts at Dartmouth or his designee, 1 of whom shall be the president of Bridgewater State College or his designee, 1 of whom shall be the president of the Massachusetts Maritime Academy or his designee, 1 of whom shall be the president of Massasoit Community College or his designee, 1 of whom shall be

the president of Cape Cod Community College or his designee, 1 of whom shall be the president of Bristol Community College or his designee, 1 of whom shall be the president of Wheaton College or his designee, 1 of whom shall be the commissioner of mental retardation or his designee, 1 of whom shall be the president of the Massachusetts Federation of Teachers or his designee, 1 of whom shall be the president of the Massachusetts Teachers Association or his designee, 1 of whom shall be the president of the Massachusetts AFL-CIO or his designee, 1 of whom shall be the president of the Taunton Area Chamber of Commerce or his designee, and 1 of whom shall be the director of Southeastern Regional Planning and Economic District or his designee; provided, further, that the life sciences center shall include, but not be limited to, an education and training facility and a laboratory research facility with state-of-the-art equipment offering research and development facilities for collaboration with industry partners; provided, further, that not less than \$10,000,000 shall be deposited in the Massachusetts Small Business Matching Grant Fund established in section 9 of said chapter 23I of the General Laws; provided, further, that not less than \$5,000,000 shall be deposited in the Massachusetts Life Sciences Education Fund established in section 10 of said chapter 23I of the General Laws; provided, further, that not less than \$90,000,000 shall be expended for the design, construction, development and related infrastructure improvements for an advanced therapeutics cluster to be constructed at the University of Massachusetts Medical School in Worcester, which shall be named the Albert “Albie” Sherman Center, and shall include a RNAi institute, a stem cell biology cluster, cord blood bank and a gene therapy cluster; provided, however, that said funds shall not be used for faculty salaries; provided, further, that not less than \$95,000,000 shall be expended for the design, construction, development and related infrastructure improvements of a life science laboratory research center complex including a laboratory research facility with state-of-the-art equipment offering research and development facilities for collaboration with industry partners to develop methods and technologies that may be translated into new commercial services and products at the University of Massachusetts at Amherst; provided, however, that said funds shall not be used for faculty salaries; provided, further, that not less than \$10,000,000 shall be expended for the purchase of state-of-the-art equipment, renovations and related expenses to support the Center for Personalized Cancer Therapy at the University of Massachusetts at Boston, a collaboration of the University of Massachusetts at Boston and the Dana-Farber Harvard Cancer Center; provided, however, that said funds shall not be used for faculty salaries; provided, further, that funds appropriated for the design, construction, development and related infrastructure improvements for an advanced therapeutics cluster to be constructed at the University of Massachu-

setts Medical School in Worcester, for the design, construction, development and related infrastructure improvements of a life science laboratory research center complex at the University of Massachusetts at Amherst, for the design, construction, development and related infrastructure improvements for a nano and biomanufacturing facility at the University of Massachusetts at Lowell and for the renovations and related expenses for the Center for Personalized Cancer Therapy at University of Massachusetts at Boston shall be transferred to the University of Massachusetts Building Authority for these infrastructure improvements and design and construction; provided, further, that no funds shall be transferred from this item for a phase of construction until the secretary of administration and finance certifies in writing to the board of the Massachusetts Life Sciences Center established by section 3 of said chapter 23I of the General Laws and to the house and senate committees on ways and means that all sources of funding for that phase of the facility have been committed and are available as necessary for commencement of design and construction; provided, further, that said written certification shall include copies of all business plans, letters of financial commitment and other documentation as said secretary and said board deem necessary to certify that all other sources of funding have been secured; provided, further, that the University of Massachusetts Building Authority shall submit to the clerks of the house of representatives and the senate a report which shall include the following: (1) a detailed list of all private donors and amounts donated for each facility, (2) a plan for design, construction, operation and maintenance and all associated costs and revenues of the facility, including the projected timeline for the completion of all phases of said projects, and (3) a description of proposed title to any and all assets associated with each facility; provided, further, that said secretary and said board shall not expend any funds until such report is filed with the clerks of the house and senate who shall forward the same to the house and senate committees on ways and means; provided, further, that notwithstanding any general or special law to the contrary, in the construction and financing of said nano and biomanufacturing facility, said advanced therapeutics cluster, said life science laboratory research center complex and said Center for Personalized Cancer Therapy, said authority may use an alternative method for procurement of design and construction including, but not limited to, sequential construction management, turnkey, design and build procurement and the phasing of such procurement including, but not limited to, approval of design and construction stages separate from combined phases; provided, further, that said building authority shall require the assurance of labor harmony during all phases of development, including construction, reconstruction and capital and routine maintenance and shall provide adequate remedies to address the failure to maintain labor harmony which shall include, but not be limited to, assessment of

liquidated damages and contract termination; provided, further, that the payment of prevailing wages, pursuant to sections 26 to 27F, inclusive, of chapter 149 of the General Laws, shall be required for all phases of said projects; and provided further, that not less than \$11,400,000 shall be expended as a grant for the acquisition of land pursuant to section 37 of this act to the University of Massachusetts at Dartmouth..... 500,000,000

1 SECTION 3. Chapter 23I of the General Laws is hereby
2 amended by striking out section 2, as appearing in section 24 of
3 chapter 123 of the acts of 2006, and inserting in place thereof the
4 following section:—

5 Section 2. As used in this chapter, the following words shall,
6 unless the context clearly requires otherwise, have the following
7 meanings:—

8 “Affiliate”, any business which directly or indirectly controls or
9 is controlled by or is under direct or indirect common control of
10 another business including, but not limited to, any business with
11 which a business is merged or consolidated, or which purchases
12 all or substantially all of the assets of a business.

13 “Board”, the board of directors of the Massachusetts Life
14 Sciences Center.

15 “Center”, the Massachusetts Life Sciences Center established
16 by section 3.

17 “Certification proposal”, a written proposal submitted by a life
18 sciences company for approval as a certified life sciences com-
19 pany pursuant to section 5.

20 “Certified life sciences company”, a company that has been
21 certified by the center for participation in the commonwealth life
22 sciences investment program and the life sciences tax incentive
23 program, established by section 5.

24 “Company”, a business corporation, partnership, firm, unincor-
25 porated association or other entity engaged or proposing to engage
26 in economic activity within the commonwealth, and any affiliate
27 thereof, which is, or the members of which are, subject to taxation
28 under chapter 62, 63, 64H or 64I.

29 “Department”, the department of revenue established pursuant
30 to section 1 of chapter 14.

31 “Eligible new job”, a new job that shall not replace an existing
32 job in the commonwealth and which may be a retained job; pro-

33 vided, however, that “eligible new job” may be further defined by
34 rules, regulations or guidelines promulgated by the center pur-
35 suant to section 5; provided further, that an “eligible new job”
36 shall be deemed to have been created in the commonwealth on the
37 first day for which Massachusetts personal income tax with-
38 holding is required in connection with the compensation paid to
39 an employee of a life sciences company or the first day for which
40 Massachusetts estimated tax payments are payable by a partner of
41 a partnership constituting a life sciences company.

42 “Enterprise”, a small business, as defined in chapters 23A or
43 40F, which has its principal place of business in the common-
44 wealth and is, or proposes to be, engaged in research and develop-
45 ment or manufacturing in the life sciences industry.

46 “Equity investment”, (a) a share in a life sciences company
47 certified pursuant to section 5, whether or not transferable or
48 denominated stock, or similar security; (b) interest of a limited
49 partner in a limited partnership; or (c) warrant or right, other than
50 a right to convert, to purchase, sell or subscribe to a share, secu-
51 rity or interest of a kind specified in clauses (a) or (b); provided,
52 however, that when making an equity investment in an enterprise
53 pursuant to section 7, the center shall receive not less than 3 per
54 cent of the equity in said enterprise.

55 “Independent research institution”, a nonprofit research organi-
56 zation that holds tax-exempt status granted under
57 section 501(c)(3) of the Internal Revenue Code and shall be orga-
58 nized and operated exclusively for scientific or educational pur-
59 poses; provided, however, that “independent research institution”
60 shall not mean a hospital, college, university or private founda-
61 tion.

62 “Life sciences”, advanced and applied sciences that expand the
63 understanding of human physiology and have the potential to lead
64 to medical advances or therapeutic applications including, but not
65 limited to, agricultural biotechnology, biogenerics, bioinformatics,
66 biomedical engineering, biopharmaceuticals, biotechnology,
67 chemical synthesis, chemistry technology, diagnostics, genomics,
68 image analysis, marine biology, marine technology, medical
69 devices, nanotechnology, natural product pharmaceuticals, pro-
70 teomics, regenerative medicine, RNA interference, stem cell
71 research and veterinary science.

72 “Life sciences company”, a business corporation, partnership,
73 firm, unincorporated association or other entity engaged in life
74 sciences research, development, manufacturing or commercializa-
75 tion in the commonwealth, and any affiliate thereof, which is, or
76 the members of which are, subject to taxation under chapter 62,
77 63, 64H or 64I.

78 “New state revenue”, revenue derived from a life sciences
79 company by the creation of any eligible new jobs or by new com-
80 mercial activity that would otherwise not have taken place in the
81 commonwealth or as may be defined by any rules or regulations
82 promulgated by the center pursuant to section 5.

83 “Permanent full-time employee”, an individual who: (i) is in an
84 employment relationship which, at its inception, does not have a
85 termination date which is a date certain or which is determined
86 with reference to the completion of some specified scope of work;
87 (ii) works a minimum number of weekly hours as the center may
88 specify by rule, regulation or guideline; and (iii) receives
89 employee benefits at least equal to those provided to other full-
90 time employees of the employer, which shall be a life sciences
91 company.

92 “Person”, a natural person, corporation, association, partnership
93 or other legal entity.

94 “Program”, the commonwealth life sciences investment pro-
95 gram established by section 5.

96 “Professional investor”, a bank, bank holding company, savings
97 institution, trust company, insurance company, investment com-
98 pany registered under the federal Investment Company Act of
99 1940, pension or profit-sharing trust or other financial institution
100 or institutional buyer, licensee under the federal Small Business
101 Investment Act of 1958 or any person, partnership or other entity
102 of whose resources a substantial amount shall be dedicated to
103 investing in securities or debt instruments and whose net worth
104 exceeds \$250,000.

105 “Qualified security”, a note, stock, treasury stock bond, deben-
106 ture, evidence of indebtedness, certificate of interest or participa-
107 tion in a profit-sharing agreement, preorganization certificate or
108 subscription, transferable share, investment contract, certificate of
109 deposit for a security, certificate of interest or participation in a
110 patent or application therefor, or in royalty or other payments

111 under such a patent or application; in general, any interest or
112 instrument security, so-called, or any certificate for, receipt for,
113 guarantee of, or option, warrant or right to subscribe to or pur-
114 chase any of the foregoing; and debt of and partnership interest in,
115 as a general or limited partner, any general or limited liability
116 partnership organized under the laws of the commonwealth, and
117 debt of and membership interest in any limited liability company
118 organized under the laws of the commonwealth.

119 “Real estate project”, real property where, after a life sciences
120 company is certified, construction or renovation shall be initiated
121 which, when completed, shall result in an increase in the assessed
122 value of the real property of at least 100 per cent over its assessed
123 value as of the date of certification; provided, however, that if a
124 real estate facility is a business incubator facility and is designated
125 as a certified life sciences company pursuant to section 5, each
126 business which executes a binding lease for space in that facility
127 after the date on which the construction or renovation activity
128 begins shall be eligible for separate designation as a certified life
129 sciences company.

130 “Revenue”, receipts, fees, rentals or other payments or income
131 received or to be received on account of obligations to the center
132 including, but not limited to, income on account of the leasing,
133 mortgaging, sale or other disposition of a project or proceeds of a
134 loan made by the center in connection with any project, and
135 amounts in reserves or held in other funds or accounts established
136 in connection with the issuance of bonds and the proceeds of any
137 investments thereof, proceeds of foreclosure and any other fees,
138 charges or other income received or receivable by the center.

139 “Seed capital”, financing that is provided for the development,
140 refinement and commercialization of a product or process and
141 other working capital needs.

142 “Taxpayer”, a certified life sciences company or person subject
143 to the taxes imposed by chapter 62, 63, 64H or 64I.

144 “Vocational technical school”, education institutions estab-
145 lished pursuant to sections 14 and 15 of chapter 71, providing
146 vocational-technical education as defined in section 1 of
147 chapter 74.

1 SECTION 4. Section 3 of said chapter 23I, as so appearing, is
2 hereby amended by striking out subsection (b) and inserting in
3 place thereof the following subsection:—

4 (b) The center shall be governed and its corporate powers exer-
5 cised by a board of directors consisting of 7 directors: 1 of whom
6 shall be the secretary of administration and finance or his
7 designee; 1 of whom shall be the secretary of housing and eco-
8 nomic development or his designee; 1 of whom shall be the presi-
9 dent of the University of Massachusetts or his designee; and 4 of
10 whom shall be appointed by the governor, 1 of whom shall be a
11 physician licensed to practice medicine in the commonwealth and
12 affiliated with an academic medical center, 1 of whom shall be a
13 chief executive officer of a Massachusetts-based life sciences
14 corporation which is a member of the board of directors of the
15 Massachusetts Biotechnology Council, 1 of whom shall be a
16 researcher involved in the commercialization of biotechnology,
17 pharmaceuticals or medical diagnostic products and 1 of whom
18 shall have significant financial experience in the life sciences
19 sector. Each appointed member shall serve a term of 5 years,
20 except that in making his initial appointments, the governor shall
21 appoint 1 director to serve for a term of 1 year, 1 director to serve
22 for a term of 2 years, 1 director to serve for a term of 3 years,
23 1 director to serve for a term of 4 years. The secretary of the exec-
24 utive office of administration and finance and the secretary of the
25 executive office of housing and economic development, or their
26 designees, shall serve as co-chairs of the board. Any person
27 appointed to fill a vacancy in the office of an appointed director of
28 the board shall be appointed in a like manner and shall serve for
29 only the unexpired term of such director. Any director shall be
30 eligible for reappointment. Any director may be removed from his
31 appointment by the governor for cause.

1 SECTION 5. Subsection (c) of said section 3 of said
2 chapter 23I, as so appearing, is hereby amended by striking out
3 the first paragraph and inserting in place thereof the following
4 paragraph:—

5 Four directors shall constitute a quorum and the affirmative
6 vote of a majority of directors present at a duly called meeting if a
7 quorum is present shall be necessary for any action to be taken by

8 the board. Any action required or permitted to be taken at a
9 meeting of the directors may be taken without a meeting if all of
10 the directors' consent in writing to such action and such written
11 consent is filed with the records of the minutes of the meetings of
12 the board. Such consent shall be treated for all purposes as a vote
13 at a meeting. Each director shall make full disclosure, under sub-
14 section (d), of his financial interest, if any, in matters before the
15 board by notifying the state ethics commission, in writing, and
16 shall abstain from voting on any matter before the board in which
17 he has a financial interest, unless otherwise permissible under
18 chapter 268A.

1 SECTION 6. Said section 3 of said chapter 23I, as so
2 appearing, is hereby further amended by striking out sub-
3 section (e) and inserting in place thereof the following:—

4 (e) The Board shall have the power to appoint and employ a
5 president, and to fix his compensation and conditions of employ-
6 ment. The president shall be the chief executive, administrative
7 and operational officer of the center and shall direct and supervise
8 administrative affairs and the general management of the center.
9 The president shall appoint and employ a chief financial and
10 accounting officer and may, subject to the general supervision of
11 the board, employ other employees, consultants, agents, including
12 legal counsel, and advisors, and shall attend meetings of the
13 board. The chief financial and accounting officer of the center
14 shall be in charge of its funds, books of account and accounting
15 records. No funds shall be transferred by the center without the
16 approval of the board and the signatures of the chief financial and
17 accounting officer and the treasurer, as appointed by the board
18 pursuant to subsection (g).

1 SECTION 7. The first sentence of subsection (g) of said
2 section 3 of said chapter 23I of the General Laws, as so appearing,
3 is hereby amended by striking out the word "chairperson," and
4 inserting in place thereof the following words:— treasurer and.

1 SECTION 8. Said subsection (g) of said section 3 of said
2 chapter 23I, as so appearing, is hereby further amended by
3 striking out the last sentence.

1 SECTION 9. Clause (14) of subsection (a) of section 4 of said
2 chapter 23I of the General Laws, as so appearing, is hereby
3 amended by striking out the words “, issue bonds and apply the
4 proceeds thereof as provided in section 8,”.

1 SECTION 10. Clause (15) of said subsection (a) of said
2 section 4 of said chapter 23I, as so appearing, is hereby amended
3 by striking out the words “, all as provided in section 8”.

1 SECTION 11. Said section 4 of said chapter 23I, as so
2 appearing, is hereby further amended by striking out clauses (16)
3 and (17) and inserting in place thereof the following 2 clause:—

4 (16) to act as the central entity and coordinating organization of
5 life sciences initiatives on behalf of the commonwealth and to
6 work in collaboration with governmental entities, bodies, centers,
7 institutes and facilities and promote all areas of life sciences to
8 advance the commonwealth’s interests and investments in the life
9 sciences;

10 (17) to promulgate a code of ethics to address collaborative
11 state and business research activities; provided, further, that said
12 code of ethics shall include recommendations, and proposed legis-
13 lation if necessary, addressing the issue of exclusive licensing
14 agreements for intellectual property developed using state funds
15 between state-funded colleges and universities and private compa-
16 nies and institutions. Said code shall be forwarded to the clerks of
17 the house and senate who shall forward the same to the joint
18 committee on economic development and emerging technologies.

1 SECTION 12. Said subsection (a) of said section 4 of said
2 chapter, as so appearing, is hereby further amended by adding the
3 following 3 clauses:—

4 (30) to operate as a licensed small business investment corpora-
5 tion pursuant to the provisions of the Small Business Investment
6 Act of 1958, 15 U.S.C. section 661 et seq., as amended; provided,
7 however, that as an alternative, the board may establish a sub-
8 sidiary corporation to operate as a licensed small business invest-
9 ment corporation pursuant to said Small Business Investment Act
10 of 1958, 15 U.S.C. section 661 et seq., and to make investments in
11 qualified securities of enterprises through such subsidiary;

12 (31) to track and report to the general court on federal initia-
13 tives that have an impact on life sciences companies doing busi-
14 ness in the commonwealth; and

15 (32) to create award programs to acknowledge successful com-
16 panies, public and private institutions and programs in industry-
17 specific areas, as determined by the center.

1 SECTION 13. Said chapter 23I is hereby further amended by
2 striking out sections 5 to 8, inclusive, as so appearing, and
3 inserting in place thereof the following 13 sections:—

4 Section 5. (a) There shall be established a commonwealth life
5 sciences investment program which shall be administered by the
6 center. The purpose of the program shall be to expand life
7 sciences-related employment opportunities in the commonwealth
8 and to promote health-related innovations by supporting and
9 stimulating research and development, manufacturing and com-
10 mercialization in the life sciences. Life sciences companies certi-
11 fied pursuant to subsection (b) shall be eligible for participation in
12 the program.

13 (b) The center may, upon a majority vote of the board, certify a
14 life sciences company as a certified life sciences company upon:
15 (i) the timely receipt, as determined by the center, of a certifica-
16 tion proposal supported by independently verifiable information,
17 signed under the pains and penalties of perjury by a person
18 expressly authorized to contract on behalf of the life sciences
19 company and which shall include, but not be limited to: (A) an
20 estimate of the projected new state revenue the life sciences
21 company expects to generate during the period for which the com-
22 pany seeks certification, together with a plan, including precise
23 goals and objectives, by which the life sciences company proposes
24 to achieve the projected new state revenue, including for each tax
25 year, an estimate of new commercial revenue that the common-
26 wealth would not otherwise have received, an estimate of the
27 number of permanent full-time employees to be hired or retained,
28 an estimate of the year in which the company expects to hire or
29 retain the employees, an estimate of the projected average salaries
30 of said employees, an estimate of the projected taxable income
31 pursuant to chapter 62 or 63 generated by said employees and an
32 estimate of the methods by which the company shall obtain new

33 employees and pursue a diverse workforce; (B) documentation of
34 an agreement, if any, between the life sciences company and
35 banking institutions with which the life science company shall
36 have agreed to establish accounts and by which the banking insti-
37 tutions shall have agreed to commit a specified percentage of the
38 funds deposited in the accounts for loans made thereby to compa-
39 nies under the small business capital access program established
40 pursuant to section 57 of chapter 23A; and (C) if appropriate, doc-
41 umentation that the life sciences company has received approval
42 for a certified project, pursuant to section 3F of chapter 23A; and
43 (ii) findings made by the center, based on the certification pro-
44 posal, documents submitted therewith and any additional investi-
45 gation by the center, and incorporated in its approval, that: (A) the
46 life sciences company shall meet all statutory requirements and
47 any other criteria that the center may prescribe including, but not
48 limited to criteria in the following areas: whether the life sciences
49 company has sufficient business contacts with the commonwealth
50 as evidenced by its business activity within the commonwealth
51 including, but not limited to, the number of full-time employees
52 employed in the commonwealth; the life sciences company's
53 potential to further technological advancements in the life
54 sciences; the life sciences company's potential to offer a break-
55 through medical treatment for a particular disease, or medical con-
56 dition; the life sciences company's potential for leveraging
57 additional funding or attracting additional resources to the com-
58 monwealth; the life sciences company's potential to promote life
59 sciences manufacturing in the commonwealth; and evidence of
60 potential royalty income and contractual means to recapture such
61 income for the purposes of this chapter, as the center considers
62 appropriate; and (B) a certified life sciences company shall meet
63 the new state revenue and employment growth projections, as
64 specified in the certification proposal, over the period for which it
65 receives benefits.

66 (c) A certified life sciences company may, upon a majority
67 vote of the board, be eligible for the following benefits which
68 shall be awarded by the board on a competitive basis: (1) benefits
69 from the life sciences tax incentive program established by sub-
70 section (d); (2) grants, loans or other investments from the Massa-
71 chusetts Life Sciences Investment Fund established by section 6;

72 (3) equity investments from the Dr. Craig C. Mello Small Busi-
73 ness Equity Investment Fund established by section 7; (4) assis-
74 tance from the regional technology and innovation centers
75 established by section 11; (5) assistance from the center to obtain
76 designation as a certified project in an economic opportunity area
77 pursuant to section 3F of chapter 23A; (6) assistance from the
78 center in accessing economic incentive programs within the
79 Massachusetts office of business development, including access to
80 the technical, human, financial, training, educational and site-
81 finding resources necessary to expand or locate in the common-
82 wealth; (7) assistance from the center in obtaining federal grants;
83 (8) assistance from the center in facilitating clinical trials;
84 (9) preference for funding for life science job training programs;
85 or (10) preference for pre-permitted industrial land as identified
86 by the Massachusetts Development Finance Agency.

87 (d) There shall be established a life sciences tax incentive pro-
88 gram. The center, in consultation with the department, may annu-
89 ally authorize incentives, including incentives carried forward,
90 refunded or transferred, pursuant to the following: subsection (m)
91 of section 6 of chapter 62, subsection (n) of said section 6 of said
92 chapter 62, paragraph 17 of section 30 of chapter 63, section 31M
93 of said chapter 63, paragraph 6 of subsection (f) of section 38 of
94 said chapter 63, the fourth paragraph of section 38C of said
95 chapter 63, subsection (j) of section 38M of said chapter 63,
96 section 38U of said chapter 63, section 38V of said chapter 63,
97 section 38W of said chapter 63, the third paragraph of section 42B
98 of said chapter 63, and subsection (xx) of section 6 of
99 chapter 64H, in a cumulative amount, including the current year
100 cost of incentives allowed in previous years, that shall not exceed
101 \$25,000,000 annually. The center may, in consultation with the
102 department, limit any incentive or incentives to a specific dollar
103 amount or time duration, or in any other manner deemed appro-
104 priate by the department; provided, however, that the department
105 shall only allocate said incentives among commonwealth certified
106 life sciences companies pursuant to subsection (b) and shall award
107 said tax incentives pursuant to subsection (c).

108 The center shall provide an estimate to the secretary of admin-
109 istration and finance of the tax cost of extending benefits to a pro-
110 posed project before certification, as approved by the

111 commissioner of revenue, based on reasonable projections of pro-
112 ject activities and costs. Tax incentives shall not be available to
113 any certified life sciences company unless expressly granted by
114 the secretary of administration and finance in writing.

115 (e) (1) Certification granted pursuant to subsection (b) shall be
116 valid for 5 years starting with the tax year in which certification is
117 granted. Each certified life sciences company shall file an annual
118 report with the center detailing whether it has met the specific tar-
119 gets established in the proposal pursuant to subclause (A) of
120 clause (i) of subsection (b).

121 (2) The certification of a life sciences company may be revoked
122 by the center after an independent investigation and determination
123 that representations made by the certified life sciences company in
124 its certification proposal are materially at variance with the con-
125 duct of the life sciences company after receiving certification;
126 provided, however, that the center shall review the certified life
127 sciences company at least annually; provided, further, that a pro-
128 ject with an actual return on investment that is less than 70 per
129 cent of the return on investment projected in the certification pro-
130 posal shall be deemed to contain a material variance for a revoca-
131 tion determination. If the center determines not to revoke
132 certification upon a finding that the actual return on investment
133 for the project is less than 70 per cent, the center shall provide its
134 reasons for the decision in writing to the secretary of administra-
135 tion and finance, the commissioner of revenue and the clerks of
136 the house of representatives and the senate, who shall forward the
137 same to the house and senate committees on ways and means, the
138 joint committee on revenue and the joint committee on economic
139 development and emerging technologies. The center shall post
140 these reasons on the internet for public access.

141 (3) Under this subsection, revocation shall take effect on the
142 first day of the tax year in which the center determines that a
143 material variance commenced. The commissioner of revenue
144 shall, as of the effective date of the revocation, disallow any
145 credits, exemptions or other tax benefits allowed by the original
146 certification of tax benefits under this section. The department
147 shall issue regulations to recapture the value of any credits,
148 exemptions or other tax benefits allowed by the certification under
149 this section; provided, however, that the recapture provisions in

150 subsection (m) of section 6 of chapter 62 and section 38U of
151 chapter 63 shall apply. If the original certification allowed sales
152 and use tax exemptions pursuant to subsection (xx) of section 6 of
153 chapter 64H, the purchaser shall accrue use tax as of the date of
154 revocation on a portion of the sales price on which exemption was
155 claimed that is proportionate to the remaining useful life of the
156 property.

157 (4) Nothing in this subsection shall limit any legal remedies
158 available to the commonwealth against any certified life sciences
159 company.

160 (f) Capital funding may be revoked only by the center after an
161 independent investigation and determination that representations
162 made by the life sciences company in its certification proposal are
163 materially at variance with the conduct of the life sciences com-
164 pany after certification; provided, further, that a life sciences com-
165 pany generating less than 70 per cent of the projected new state
166 revenue in the certification proposal shall be deemed to contain a
167 material variance for the purposes of a revocation determination.
168 If the center does not revoke certification despite said material
169 variance, the center shall provide its reasons for the decision in
170 writing to the secretary of administration and finance, the com-
171 missioner of revenue and the clerks of the house of representatives
172 and the senate, who shall forward the same to the house and
173 senate committees on ways and means, the joint committee on
174 bonding, capital expenditures and state assets and the joint com-
175 mittee on economic development and emerging technologies.

176 A notice of revocation under this subsection shall specify the
177 date on which the revocation is effective, which shall be the date
178 of the notice or the date on which the center determined that the
179 material variance commenced. The secretary of administration
180 and finance shall, as of the effective date of the revocation, dis-
181 allow any loans, grants or other benefits allowed by the original
182 certification under this section. The department may issue regula-
183 tions to recapture any grants or loans allowed by the certification
184 under this section.

185 (g) The center shall revoke the certification of a life sciences
186 company when independent investigations conducted in 2 consec-
187 utive years determine that representations made by the life

188 sciences company in its project proposal are deemed materially at
189 variance, pursuant to paragraph (2) of subsection (e) or sub-
190 section (f).

191 (h) The board, in consultation with the executive office of
192 administration and finance and the executive office of housing and
193 economic development, shall promulgate rules, regulations or
194 guidelines necessary to carry out the provisions of this section.

195 Section 6. (a) There shall be established and placed within the
196 center a fund to be known as the Massachusetts Life Sciences
197 Investment Fund, hereinafter in this section referred to as the
198 fund, to be held by the center separate and apart from its other
199 funds, to finance the activities of the center. The fund shall be
200 credited any appropriations, bond proceeds or other monies autho-
201 rized by the general court and specifically designated to be cred-
202 ited thereto, such additional funds as are subject to the direction
203 and control of the center, any pension funds, federal grants or
204 loans, royalties or private investment capital which may properly
205 be applied in furtherance of the objectives of the fund, any pro-
206 ceeds from the sale of qualified investments secured or held by
207 the fund, any fees and charges imposed relative to the making of
208 qualified investments as defined by the center, secured or held by
209 the fund and any other monies which may be available to the
210 center for the purposes of the fund from any other source or
211 sources. Any revenues, deposits, receipts, or funds received
212 through the receipt of royalties, interest, dividends, or the sale of
213 equity instruments shall be deposited in the fund, and shall be
214 available to the center for the purposes described in this section,
215 without further appropriation. All available moneys in the fund
216 that are unexpended at the end of each fiscal year shall not revert
217 to the General Fund and shall be available for expenditure in the
218 subsequent fiscal year.

219 (b) The center shall invest and reinvest the fund and the
220 income thereof only as follows: (1) making qualified investments
221 pursuant to subsection (c); (2) defraying the ordinary and neces-
222 sary expenses of administration and operation associated with the
223 center; provided, however, that said administrative and opera-
224 tional expenses shall not exceed 15 per cent of the maximum
225 amount authorized to be expended from the fund in a fiscal year;
226 (3) investing any funds not required for immediate disbursement

227 in the purchase of such securities as may be lawful investments
228 for fiduciaries in the commonwealth; (4) paying binding obliga-
229 tions associated with such qualified investments which shall be
230 secured by the fund as the same become payable; and (5) paying
231 principal or interest on qualified investments secured by the fund
232 or paying any redemption premium required to be paid when such
233 qualified investments shall be redeemed prior to maturity; pro-
234 vided, however, that monies in the fund shall not be withdrawn at
235 any time in such an amount as would reduce the amount of the
236 fund to less than the minimum requirement thereof established by
237 the board, except for the purpose of paying binding obligations
238 associated with qualified investments which shall be secured by
239 the fund as the same become payable.

240 (c) The fund shall be held and applied by the center, subject to
241 the approval of the board, to make qualified investments, grants,
242 research and other funding and loans designed to advance the
243 following public purposes for the life sciences in the common-
244 wealth: (1) to stimulate increased financing for the expansion of
245 research and development by leveraging private financing for
246 highly productive state-of-the-art research and development facili-
247 ties, equipment and instrumentation and by providing financing
248 related thereto including, but not limited to, financing for the con-
249 struction or expansion of such new facilities; (2) to make targeted
250 investments, including research funding, proof of concept funding
251 and funding for the development of devices, drugs or therapeutics
252 and to promote manufacturing activities for new or existing
253 advanced technologies and life sciences research; (3) to make
254 matching grants to colleges, universities, independent research
255 institutions, nonprofit entities, public instrumentalities, companies
256 and other entities in connection with support from the federal gov-
257 ernment, industry and other grant-funding sources related to the
258 expansion of research and development and to increase and
259 strengthen economic development, employment opportunities and
260 commercial and industrial sectors in the field of life sciences;
261 (4) to provide bridge financing to colleges, universities, indepen-
262 dent research institutions, nonprofit entities, public instrumentali-
263 ties, companies and other entities for the receipt of grants as
264 described in clause (3) awarded or to be awarded by the federal
265 government, industry or other sources; (5) to provide fellowships,

266 co-ops, internships, loans and grants; (6) to provide workforce
267 training grants to prepare individuals for life sciences careers;
268 (7) to provide funding for development, coordination and mar-
269 keting of higher education programs; (8) to make qualified grants
270 to certified life sciences companies for site remediation, prepara-
271 tion and ancillary infrastructure improvement projects; and (9) to
272 otherwise further the public purposes set forth herein.

273 (d) Proceeds of the fund may be used by the center to fund life
274 sciences initiatives including: (1) international trade initiatives;
275 (2) qualified grants to graduate level and doctoral students and
276 post-doctoral fellows for living expenses from the Dr. Judah
277 Folkman Higher Education Grant Fund established by section 8;
278 (3) equity investments from the Dr. Craig C. Mello Small Busi-
279 ness Equity Investment Fund established by section 7; (4) joint
280 academic and industrial research and development and commer-
281 cial business exchanges between the commonwealth and Israel, in
282 collaboration with the Massachusetts international trade council;
283 (5) the Massachusetts Technology Transfer Center, established by
284 section 45 of chapter 75; (6) the Massachusetts Science, Tech-
285 nology Engineering, and Mathematics Grant Fund, established by
286 section 2MMM of chapter 29; or (7) a program to promote the
287 research and development of plant-made pharmaceuticals and
288 industrial products through field trials, in collaboration with the
289 department of agricultural resources.

290 (e) The center shall make no such qualified investment pursuant
291 to clause (1) of subsection (b) unless: (1) said investment has been
292 approved by a majority vote of the board; (2) the recipient is a
293 certified life sciences company pursuant to section 5 or a project
294 or initiative listed in subsection (d); (3) the center finds, to the
295 extent possible, that a definite benefit to the commonwealth's
296 economy may reasonably be expected from said qualified invest-
297 ment; provided, further, that in evaluating a request or application
298 for funding, the center shall consider the following: (i) the appro-
299 priateness of the project; (ii) whether the project has significant
300 potential to expand employment; (iii) the project's potential to
301 enhance technological advancements; (iv) the project's potential
302 to lead to a breakthrough medical treatment for a particular dis-
303 ease or medical condition; (v) the project's potential for lever-
304 aging additional funding or attracting resources to the

305 commonwealth; (vi) the project's potential to promote manufac-
306 turing in the commonwealth; and (vii) evidence of potential roy-
307 alty income and contractual means to recapture such income for
308 the purposes of this chapter, as the center considers appropriate;
309 (4) to the extent said investment is a capital investment made pur-
310 suant to clause (8) of subsection (c), the investment has been
311 approved by the secretary of the executive office of administration
312 and finance upon request of the center; provided, however, that
313 said request shall be submitted to the secretary in writing and
314 shall, include but not be limited to: (i) a description of the project
315 or program to be funded; (ii) the economic benefits to the com-
316 monwealth which can reasonably be expected from said project or
317 program; (iii) a copy of the proposed contract or other document
318 executing the transaction between the center and the recipient of
319 the funds; (iv) a description of the contractual or other legal reme-
320 dies available to the center upon non-performance of the contract
321 or other document executing the transaction by the recipient
322 including, but not limited to, any provisions for restitution or
323 reimbursement of the funds granted, loaned or otherwise invested
324 in or with the recipient; and (v) any other information as the
325 secretary may determine; and (5) said qualified investment
326 conforms with the rules approved by the board.

327 Said rules shall set the terms and conditions for investments
328 which shall constitute qualified investments including, but not
329 limited to, loans, guarantees, loan insurance or reinsurance, equity
330 investments, grants awarded pursuant to clause (3) of subsec-
331 tion (c), other financing or credit enhancing devices, as estab-
332 lished by the center directly or on its own behalf or in conjunction
333 with other public instrumentalities, or private institutions or the
334 federal government. Said rules shall provide that qualified invest-
335 ments made pursuant to clauses (1) and (2) of said subsection (c)
336 shall involve a transaction with the participation of at least 1 at-
337 risk private party.

338 Said rules shall establish the terms, procedures, standards and
339 conditions which the center shall employ to identify qualified
340 applications, process applications, make investment determina-
341 tions, safeguard the fund, advance the objective of increasing
342 employment opportunities, oversee the progress of qualified
343 investments and secure the participation of other public instru-

344 mentalities, private institutions or the federal government in such
345 qualified investments. Said rules shall provide for negotiated
346 intellectual property agreements between the center and a quali-
347 fied investment recipient which shall include the terms and condi-
348 tions by which the fund's support may be reduced or withdrawn.

349 (f) The center may solicit investments by private institutions or
350 investors in the activities of the fund and may reach agreements
351 with such private institutions or investors regarding the terms of
352 any such investments including, but not limited to, the rights of
353 such investors to participate in the income or appropriation of the
354 fund. To further the objective of securing investments by private
355 institutions or investors in the activities of the fund pursuant to the
356 preceding sentence, the center may develop a proposal creating a
357 separate investment entity which shall permit the commingling of
358 the fund's resources with the maximum participation by such pri-
359 vate institutions or investors in a manner consistent with the
360 public purpose of the fund and under the terms and conditions
361 established to protect and preserve the assets of the fund.

362 (g) Copies of the approved rules, and any modifications, shall
363 be submitted to the clerks of the house of representatives and the
364 senate, who shall forward the same to the house and senate com-
365 mittees on ways and means and the joint committee on economic
366 development and emerging technologies.

367 (h) Qualified investment transactions made by the center pur-
368 suant to this section shall not, except as specified in this chapter,
369 be subject to chapter 175, or any successor thereto, and shall be
370 payable solely from the Massachusetts Life Sciences Investment
371 Fund established by this section and shall not constitute a debt or
372 pledge of the full faith and credit of the commonwealth, the center
373 or any subdivision of the commonwealth.

374 (i) The center shall not make expenditure from or commitment
375 of the assets of the fund including, but not limited to, the making
376 of qualified investments secured by the fund, if following the
377 making of said qualified investment, the amount of the fund shall
378 be less than the minimum requirement established by the board.

379 Section 7. (a) There shall be established and placed within the
380 center a fund to be known as the Dr. Craig C. Mello Small Busi-
381 ness Equity Investment Fund, hereinafter in this section referred
382 to as the fund, to be held by the center separate and apart from its

383 other funds. The fund shall be credited any appropriations, bond
384 proceeds or other monies authorized by the general court and
385 specifically designated to be credited thereto, such additional
386 funds as are subject to the direction and control of the center, any
387 pension funds, federal grants or loans, royalties or private invest-
388 ment capital which may properly be applied in furtherance of the
389 objectives of the fund, any proceeds from the sale of qualified
390 investments secured or held by the fund, any fees and charges
391 imposed relative to the making of qualified investments as defined
392 by the center, secured or held by the fund and any other monies
393 which may be available to the center for the purposes of the fund
394 from any other source or sources. Any revenues, deposits,
395 receipts, or funds received through the receipt of royalties,
396 interest, dividends, or the sale of equity instruments shall be
397 deposited in the fund, and shall be available to the center for the
398 purposes described in this section, without further appropriation.
399 All available moneys in the fund that are unexpended at the end of
400 each fiscal year shall not revert to the General Fund and shall be
401 available for expenditure in the subsequent fiscal year.

402 (b) The center shall invest and reinvest the fund and the
403 income thereof only as follows: (1) making qualified equity
404 investments pursuant to subsection (c); (2) investing funds not
405 required for immediate disbursement in the purchase of such secu-
406 rities as may be lawful investments for fiduciaries in the common-
407 wealth; (3) paying binding obligations associated with such
408 qualified investments which shall be secured by the fund as the
409 same become payable; and (4) paying principal or interest on
410 qualified investments secured by the fund or paying any redemp-
411 tion premium required to be paid when such qualified investments
412 shall be redeemed prior to maturity; provided, however, that
413 monies in the fund shall not be withdrawn at any time in such an
414 amount as would reduce the amount of the fund to less than the
415 minimum requirement thereof established by the board, except for
416 the purpose of paying binding obligations associated with quali-
417 fied investments which shall be secured by the fund as the same
418 become payable.

419 (c) The fund shall be held and applied by the center to make
420 qualified equity investments in enterprises seeking to raise seed
421 capital; provided, however, that said qualified equity investments

422 shall not exceed \$250,000 in any 1 enterprise. The center shall
423 not make such qualified equity investments unless: (1) said invest-
424 ment has been approved by a majority vote of the board; (2) the
425 recipient is a life sciences company certified pursuant to section 5;
426 and (3) the center finds, to the extent possible, that a definite ben-
427 efit to the commonwealth's economy may reasonably be expected
428 from said qualified investment. In evaluating a request or applica-
429 tion for funding, the center shall consider whether: (i) the pro-
430 ceeds of the equity investment shall only be used to cover the seed
431 capital needs of the enterprise except as hereinafter authorized;
432 (ii) the enterprise has a reasonable chance of success; (iii) the cen-
433 ter's participation is necessary to the success of the enterprise
434 because funding for the enterprise is unavailable in the traditional
435 capital markets or contingent upon matching funds, or because
436 funding has been offered on terms that would substantially hinder
437 the success of the enterprise; (iv) the enterprise has reasonable
438 potential to create a substantial amount of primary employment in
439 the commonwealth; (v) the enterprise's principals have made or
440 are prepared to make a substantial financial and time commitment
441 to the enterprise; (vi) the securities to be purchased shall be quali-
442 fied securities; (vii) there shall be a reasonable possibility that the
443 center shall, at a minimum, recoup its initial investment;
444 (viii) binding commitments have been made to the center by the
445 enterprise for adequate reporting of financial data to the center,
446 which shall include a requirement for an annual or other periodic
447 audit of the books of the enterprise, and for such control on the
448 part of the center as the board shall consider prudent over the
449 management of the enterprise, to protect the investment of the
450 center including the board's right to access, without limitation,
451 financial and other records of the enterprise; and (ix) a reasonable
452 effort has been made to find a professional investor to invest in
453 the enterprise and such effort was unsuccessful; and (4) said quali-
454 fied equity investment conforms with the rules approved by the
455 board.

456 Said rules shall establish the terms, procedures, standards and
457 conditions which the center shall employ to identify qualified
458 applications, process applications, make investment determina-
459 tions, safeguard the fund, advance the objective of increasing
460 employment opportunities, oversee the progress of qualified

461 equity investments and secure the participation of other public
462 instrumentalities, private institutions or the federal government in
463 such qualified equity investments. Said rules shall provide that
464 each recipient of a qualified investment shall be required to pay a
465 fee as a condition of such receipt, and said fee may take the form
466 of points, an interest rate premium or a contribution of warrants or
467 other forms of equity or consideration to the fund. Said rules shall
468 provide for negotiated agreements between the center and each
469 recipient of a qualified investment regarding the terms and condi-
470 tions by which the fund's support thereof could be reduced or
471 withdrawn.

472 (d) The center may solicit investments by private institutions
473 or investors in the activities of the fund and may reach agreements
474 with such private institutions or investors regarding the terms of
475 such investments including, but not limited to, the rights of such
476 investors to participate in the income or appropriation of the fund.
477 To further the objective of securing investments by private institu-
478 tions or investors in the activities of the fund pursuant to the pre-
479 ceding sentence, the center may develop a proposal relative to the
480 creation of a separate investment entity which shall permit the
481 commingling of the fund's resources with the maximum participa-
482 tion by such private institutions or investors consistent with the
483 public purpose of the fund and under the terms and conditions
484 established to protect and preserve the assets of the fund.

485 (e) Copies of the approved rules, and any modifications
486 thereto, shall be submitted to the clerks of the house of representa-
487 tives and the senate, who shall forward the same to the house and
488 senate committees on ways and means and the joint committee on
489 economic development and emerging technologies.

490 (f) Qualified equity investment transactions made by the center
491 pursuant this section shall not, except as specified in this chapter,
492 be subject to chapter 175, or any successor thereto, and shall be
493 payable solely from the Dr. Craig C. Mello Small Business Equity
494 Investment Fund established by this section and shall not consti-
495 tute a debt or pledge of the full faith and credit of the common-
496 wealth, the center or any subdivision of the commonwealth.

497 (g) The center shall not make expenditure from or commitment
498 of the assets of the fund including, but not limited to, the making
499 of qualified investments secured by the fund, if following the

500 making of said qualified investment, the amount of the fund shall
501 be less than the minimum requirement established by the board.

502 Section 8. (a) There shall be established and placed within the
503 center a fund to be known as the Dr. Judah Folkman Higher Edu-
504 cation Grant Fund, hereinafter in this section referred to as the
505 fund, to be held by the center separate and apart from its other
506 funds. The fund shall be credited any appropriations, bond pro-
507 ceeds or other monies authorized by the general court and specifi-
508 cally designated to be credited thereto, such additional funds as
509 are subject to the direction and control of the center, any pension
510 funds, federal grants or loans, royalties or private investment
511 capital which may properly be applied in furtherance of the objec-
512 tives of the fund, any proceeds from the sale of qualified invest-
513 ments secured or held by the fund, any fees and charges imposed
514 relative to the making of qualified investments as defined by the
515 center, secured or held by the fund and any other monies which
516 may be available to the center for the purposes of the fund from
517 any other source or sources. Any revenues, deposits, receipts, or
518 funds received through the receipt of royalties, interest, dividends,
519 or the sale of equity instruments shall be deposited in the fund,
520 and shall be available to the center for the purposes described in
521 this section, without further appropriation. All available moneys
522 in the fund that are unexpended at the end of each fiscal year shall
523 not revert to the General Fund and shall be available for expendi-
524 ture in the subsequent fiscal year.

525 (b) The center shall invest and reinvest the fund and the
526 income thereof only as follows: (1) making qualified grants pur-
527 suant to subsection (c); (2) investing funds not required for imme-
528 diate disbursement in the purchase of such securities as may be
529 lawful investments for fiduciaries in the commonwealth;
530 (3) paying binding obligations associated with such qualified
531 investments which shall be secured by the fund as the same
532 become payable; and (4) paying principal or interest on qualified
533 investments secured by the fund or paying any redemption pre-
534 mium required to be paid when such qualified investments shall
535 be redeemed prior to maturity; provided, however, that monies in
536 the fund shall not be withdrawn at any time in such an amount as
537 would reduce the amount of the fund to less than the minimum
538 requirement thereof established by the center, except for the pur-

539 pose of paying binding obligations associated with qualified
540 investments which shall be secured by the fund as the same
541 become payable.

542 (c) The fund shall be held and applied by the center to make
543 qualified grants to graduate level and doctoral students and post-
544 doctoral fellows studying or employed in the life sciences for
545 living expenses; provided, however, that the center shall make no
546 such qualified grants unless said grant has been approved by a
547 majority vote of the board. Grants awarded from the fund shall, in
548 addition to any restrictions adopted by the center, shall be
549 awarded in \$5,000 increments not to exceed \$15,000 annually per
550 recipient and further restrictions include: (1) recipients shall be
551 enrolled in a graduate or doctorate level program or shall be
552 working as postdoctoral fellows at a college, university, indepen-
553 dent research institution or an academic medical center in the
554 commonwealth; (2) recipients shall be commonwealth residents;
555 and (3) the annual total household income of a recipient shall not
556 exceed 300 per cent of the federal poverty level. The center shall
557 make no such qualified grants pursuant to said clause (1) of said
558 subsection (b) unless such qualified grant conforms with rules
559 approved by the board.

560 Said rules shall establish the terms and conditions for grants
561 which constitute qualified grants and shall establish the terms,
562 procedures, standards and conditions which the center shall
563 employ to identify qualified applications, process applications,
564 make grant determinations, safeguard the fund, oversee the
565 progress of qualified grants and secure the participation of other
566 public instrumentalities, private institutions or the federal govern-
567 ment in such qualified grants.

568 (d) The center may solicit investments by private institutions
569 or investors in the activities of the fund and may reach agreements
570 with such private institutions or investors regarding the terms of
571 any such investments including, but not limited to, the rights of
572 such investors to participate in the income or appropriation of the
573 fund. To further the objective of securing investments by private
574 institutions or investors in the activities of the fund pursuant to the
575 preceding sentence, the center may develop a proposal creating a
576 separate investment entity which shall permit the commingling of
577 the fund's resources with the maximum participation by such pri-

578 vate institutions or investors in a manner consistent with the
579 public purpose of the fund and under the terms and conditions
580 established to protect and preserve the assets of the fund.

581 (e) Copies of the approved rules, and any modifications
582 thereto, shall be submitted to the clerks of the house of representa-
583 tives and the senate, who shall forward the same to the house and
584 senate committees on ways and means and the joint committee on
585 economic development and emerging technologies.

586 (f) Qualified grants and investment transactions made by the
587 center pursuant to the provisions of this section shall not, except
588 as specified in this chapter, be subject to the provisions of
589 chapter 175, or any successor thereto, and shall be payable solely
590 from the Dr. Judah Folkman Higher Education Grant Fund, estab-
591 lished by this section and shall not constitute a debt or pledge of
592 the full faith and credit of the commonwealth, the center or any
593 subdivision of the commonwealth.

594 (g) The center shall not make expenditure from or commitment
595 of the assets of the fund including, but not limited to, the making
596 of qualified investments secured by the fund, if following the
597 making of said qualified investment, the amount of the fund shall
598 be less than the minimum requirement established by the board.

599 Section 9. (a) There shall be established and placed within the
600 center the Massachusetts Small Business Matching Grant Fund,
601 hereinafter referred to in this section as the fund, to be held by the
602 center separate and apart from its other funds. The fund shall be
603 credited any appropriations, bond proceeds or other monies autho-
604 rized by the general court and specifically designated to be cred-
605 ited thereto, such additional funds as are subject to the direction
606 and control of the center, any pension funds, federal grants or
607 loans, royalties or private investment capital which may properly
608 be applied in furtherance of the objectives of the fund, any pro-
609 ceeds from the sale of qualified investments secured or held by
610 the fund, any fees and charges imposed relative to the making of
611 qualified investments as defined by the center, secured or held by
612 the fund and any other monies which may be available to the
613 center for the purposes of the fund from any other source or
614 sources. Any revenues, deposits, receipts, or funds received
615 through the receipt of royalties, interest, dividends, or the sale of
616 equity instruments shall be deposited in the fund, and shall be

617 available to the center for the purposes described in this section,
618 without further appropriation. All available moneys in the fund
619 that are unexpended at the end of each fiscal year shall not revert
620 to the General Fund and shall be available for expenditure in the
621 subsequent fiscal year.

622 (b) The center shall invest and reinvest the fund and the
623 income thereof only as follows: (1) making qualified grants pur-
624 suant to subsection (c); (2) investing any funds not required for
625 immediate disbursement in the purchase of such securities as may
626 be lawful investments for fiduciaries in the commonwealth;
627 (3) paying binding obligations associated with such qualified
628 investments which shall be secured by the fund as the same
629 become payable; and (4) paying principal or interest on qualified
630 investments secured by the fund or paying any redemption pre-
631 mium required to be paid when such qualified investments shall
632 be redeemed prior to maturity; provided, however, that monies in
633 the fund shall not be withdrawn at any time in such an amount as
634 would reduce the amount of the fund to less than the minimum
635 requirement thereof established by the center, except for the pur-
636 pose of paying binding obligations associated with qualified
637 investments which shall be secured by the fund as the same
638 become payable.

639 (c) Notwithstanding any provision of this chapter to the
640 contrary, a company need not be a certified life sciences company,
641 as established in section 5, to be eligible for matching grants
642 pursuant to this section. The fund shall be held and applied by the
643 center to make qualified loans, grants or other investments to
644 stimulate increased financing for life sciences and high tech-
645 nology research and development, manufacturing and commer-
646 cialization in the commonwealth by matching grants to public
647 agencies, independent research institutions, nonprofits or to life
648 sciences or high technology companies to increase and strengthen
649 the commonwealth's economic development, employment oppor-
650 tunities and commercial and industrial sectors. The fund shall
651 provide matching grants to commonwealth-based life sciences or
652 high technology companies that receive small business innovation
653 research or small business technology transfer grants from the
654 Small Business Administration, pursuant to 15 U.S.C. section 638,
655 to assist companies that have developed new commercialization-

656 ready technologies to reach production and create manufacturing
657 jobs in the commonwealth. Said matching grants shall be used to
658 create manufacturing jobs and may be used for, without limitation,
659 the creation of, and capital improvements for, production facili-
660 ties, workforce training, product marketing and purchasing infra-
661 structure for product manufacturing. Said matching grants shall
662 be distributed to eligible companies that have commercialization-
663 ready technologies developed with assistance from the Small
664 Business Administration in the form of \$1 in matching funds for
665 every \$1 granted from the small business innovation research
666 phase IIB grants, phase III grants and the commercialization pilot
667 project established by 15 U.S.C. section 638. Said matching
668 grants shall be awarded in consultation with the Small Business
669 Association of New England. No such grant to any company shall
670 exceed \$500,000 annually and the center shall make no such qual-
671 ified loan, grant or other investment unless: (1) said loan, grant or
672 investment has been approved by a majority vote of the board;
673 (2) the center finds that, to the extent possible, a definite benefit
674 to the commonwealth's economy may reasonably be expected
675 from said qualified loan, grant or investment; provided, however,
676 that in evaluating a request or application for funding, the center
677 shall consider whether: (i) the loan, grant or investment shall stim-
678 ulate increased financing for life sciences and high technology
679 research and development, manufacturing and commercialization;
680 (ii) the enterprise has a reasonable chance of success; (iii) center
681 participation is necessary; (iv) the enterprise has the reasonable
682 potential to create a substantial amount of new employment in the
683 commonwealth; (v) the principals of the enterprise have made or
684 are prepared to make a substantial financial and time commitment
685 to the enterprise; (vi) binding commitments have been made to the
686 center by the enterprise for adequate reporting of financial data to
687 the center, which shall include a requirement for an annual or
688 other periodic audit of the books of the enterprise, and for such
689 control on the part of the center as the board shall consider pru-
690 dent over the management of the company to protect the invest-
691 ment of the center including the board's right to access, without
692 limitation, financial and other records of the enterprise; and (vii) a
693 reasonable effort has been made to find a professional investor to
694 invest in the enterprise and whether such effort was unsuccessful;

695 and (3) said loan, grant or other investment conforms with rules
696 approved by the board.

697 Said rules shall define life sciences technology and high tech-
698 nology for purposes hereof; provided, however, that such defini-
699 tion shall include companies engaging in research and
700 development, commercialization or manufacturing in the com-
701 monwealth. Said rules shall establish the terms and conditions for
702 investments which constitute qualified investments, and may
703 include, but not be limited to, loans, guarantees, loan insurance or
704 reinsurance, equity investments or other financing or credit
705 enhancing devices, as made by the center directly or on its own
706 behalf or in conjunction with other public instrumentalities,
707 private institutions or the federal government. Said rules shall
708 establish the terms, procedures, standards and conditions which
709 the center shall employ to identify qualified applications, process
710 applications, make investment determinations, safeguard the fund,
711 advance the objective of increasing employment opportunities for
712 the citizens of the commonwealth, oversee the progress of quali-
713 fied investments and secure the participation of other public
714 instrumentalities, private institutions or the federal government in
715 such qualified investments. Said rules shall provide that each
716 recipient of a qualified investment shall be required to pay a fee as
717 a condition of such receipt, and said fee may take the form of
718 points, an interest rate premium or a contribution of warrants or
719 other forms of equity or consideration to the fund. Said rules shall
720 provide for negotiated agreements between the center and each
721 recipient of a qualified investment regarding the terms and condi-
722 tions by which the fund's support thereof could be reduced or
723 withdrawn.

724 (d) The center may solicit investments by private institutions
725 or investors in the activities of the fund and may reach agreements
726 with such private institutions or investors regarding the terms of
727 any such investments including, but not limited to, the rights of
728 such investors to participate in the income or appropriation of the
729 fund. To further the objective of securing investments by private
730 institutions or investors in the activities of the fund pursuant to the
731 preceding sentence, the center may develop a proposal relative to
732 the creation of a separate investment entity which shall permit the
733 commingling of the fund's resources with the maximum participa-

734 tion by such private institutions or investors consistent with the
735 public purpose of the fund and under the terms and conditions
736 established to protect and preserve the assets of the fund; pro-
737 vided, however, that if the creation or operation of such a separate
738 entity would require additional or clarifying amendments to the
739 enabling act of the center, said proposal shall include proposed
740 statutory language with regard thereto. Any additional clarifying
741 amendments to the enabling act shall be submitted by the center to
742 the clerks of the house of representatives and the senate, who shall
743 forward the same to the house and senate committees on ways and
744 means and the joint committee on economic development and
745 emerging technologies.

746 (e) Copies of the approved rules, and any modifications
747 thereto, shall be submitted to the clerks of the house of representa-
748 tives and the senate, who shall forward the same to the house and
749 senate committees on ways and means and the joint committee on
750 economic development and emerging technologies.

751 (f) Qualified investment transactions made by the center pur-
752 suant to the provisions of this section shall not, except as specified
753 in this chapter, be subject to the provisions of chapter 175, or any
754 successor thereto, and shall be payable solely from the Massachu-
755 setts Small Business Matching Grant Fund, established by this
756 section and shall not constitute a debt or pledge of the full faith
757 and credit of the commonwealth, the center or any subdivision of
758 the commonwealth.

759 (g) The center shall not make expenditure from or commitment
760 of the assets of the fund including, but not limited to, the making
761 of qualified investments secured by the fund, if following the
762 making of said qualified investment, the amount of the fund shall
763 be less than the minimum requirement established by the board.

764 (h) The center shall develop a plan ensuring that fund disburse-
765 ments made pursuant to this section shall be distributed
766 throughout all regions of the commonwealth.

767 Section 10. (a) There shall be established and placed within the
768 center a fund to be known as the Massachusetts Life Sciences
769 Education Fund, hereinafter in this section referred to as the fund,
770 to be held by the center separate and apart from its other funds.
771 The fund shall be credited any appropriations, bond proceeds or
772 other monies authorized by the general court and specifically des-

773 ignated to be credited thereto, such additional funds as are subject
774 to the direction and control of the center, any pension funds, fed-
775 eral grants or loans, royalties or private investment capital which
776 may properly be applied in furtherance of the objectives of the
777 fund, any proceeds from the sale of qualified investments secured
778 or held by the fund, any fees and charges imposed relative to the
779 making of qualified investments as defined by the center, secured
780 or held by the fund and any other monies which may be available
781 to the center for the purposes of the fund from any other source or
782 sources. Any revenues, deposits, receipts, or funds received
783 through the receipt of royalties, interest, dividends, or the sale of
784 equity instruments shall be deposited in the fund, and shall be
785 available to the center for the purposes described in this section,
786 without further appropriation. All available moneys in the fund
787 that are unexpended at the end of each fiscal year shall not revert
788 to the General Fund and shall be available for expenditure in the
789 subsequent fiscal year.

790 (b) The center shall invest and reinvest the fund and the
791 income thereof only as follows: (1) making qualified grants pur-
792 suant to subsection (c); (2) investing any funds not required for
793 immediate disbursement in the purchase of such securities as may
794 be lawful investments for fiduciaries in the commonwealth;
795 (3) paying binding obligations associated with such qualified
796 investments which shall be secured by the fund as the same
797 become payable; and (4) paying principal or interest on qualified
798 investments secured by the fund or paying any redemption pre-
799 mium required to be paid when such qualified investments shall
800 be redeemed prior to maturity; provided, however, that monies in
801 the fund shall not be withdrawn at any time in such an amount as
802 would reduce the amount of the fund to less than the minimum
803 requirement thereof established by the center, except for the pur-
804 pose of paying binding obligations associated with qualified
805 investments which are secured by the fund as the same become
806 payable.

807 (c) The fund shall be held and applied by the center to make
808 qualified grants to vocational and technical schools for purchasing
809 or leasing necessary equipment to train students in life sciences
810 technology and research; provided, however, that the center shall
811 make no such qualified grants unless: (1) said grant has been

812 approved by a majority vote of the board; (2) the grant recipient
813 shall be a vocational technical school; provided, however, that if
814 funds remain after consideration of grant applications submitted
815 by vocational technical schools, the center may make qualified
816 grants to community colleges established by chapter 15A or any
817 other general or special law; (3) the grant recipient has identified
818 and properly trained instructors to use the equipment to be pur-
819 chased or leased; and (4) said qualified grants conform with the
820 rules approved by the board.

821 Said rules shall set the terms and conditions for grants which
822 constitute qualified grants and shall set forth the terms, proce-
823 dures, standards and conditions which the center shall employ to
824 identify qualified applications, process applications, make invest-
825 ment determinations, safeguard the fund, advance the objective of
826 increasing employment opportunities for the citizens of the com-
827 monwealth, oversee the progress of qualified grants, and secure
828 the participation of other public instrumentalities, private institu-
829 tions or the federal government in such qualified grants.

830 (d) The center may solicit investments by private institutions
831 or investors in the activities of the fund and may reach agreements
832 with such private institutions or investors regarding the terms of
833 any such investments including, but not limited to, the rights of
834 such investors to participate in the income or appropriation of the
835 fund. To further the objective of securing investments by private
836 institutions or investors in the activities of the fund as established
837 in the preceding sentence, the center may develop a proposal
838 relative to the creation of a separate investment entity which shall
839 permit the commingling of the fund's resources with the max-
840 imum participation by such private institutions or investors in a
841 manner consistent with the public purpose of the fund and under
842 terms and conditions established to protect and preserve the assets
843 of the fund.

844 (e) Copies of the approved rules, and any modifications
845 thereto, shall be submitted to the clerks of the house of representa-
846 tives and the senate and shall forward the same to the house and
847 senate committees on ways and means and the joint committee on
848 economic development and emerging technologies.

849 (f) Qualified grants and investment transactions made by the
850 center pursuant to the provisions of this section shall not, except

851 as specified in this chapter, be subject to the provisions of
852 chapter 175, or any successor thereto, and shall be payable solely
853 from the Massachusetts Life Sciences Education Fund, established
854 by this section and shall not constitute a debt or pledge of the full
855 faith and credit of the commonwealth, the center or any subdivi-
856 sion of the commonwealth.

857 (g) The center shall not make expenditure from or commitment
858 of the assets of the fund including, but not limited to, the making
859 of qualified investments secured by the fund, if following the
860 making of said qualified investment, the amount of the fund shall
861 be less than the minimum requirement established by the board.

862 Section 11. (a) The center, in consultation with the advisory
863 board established by section 12, shall identify 1 existing life
864 sciences entity with experience facilitating local or regional life
865 science industry sectors to serve as a regional technology and
866 innovation center in each of the following 5 regions: western
867 Massachusetts, central Massachusetts, northeastern Massachu-
868 setts, southeastern Massachusetts and metropolitan Boston.

869 (b) The purpose of each regional technology and innovation
870 center shall include, but shall not be limited to: (i) encouraging
871 and facilitating collaboration between existing organizations dedi-
872 cated to promoting the regional life science industry; (ii) inputting
873 regional life science industry and educational data, including the
874 documentation of regional lab space, into the life sciences
875 industry database as designed and maintained by the center;
876 (iii) organizing, facilitating and implementing regional workforce
877 development initiatives; (iv) providing business management and
878 resource training, including the dissemination of best business
879 practices; (v) facilitating public and private investment;
880 (vi) reviewing and providing recommendations to the center pro-
881 posals; (vii) identifying property conducive to regional life sci-
882 ence industry expansion; (viii) investigating and identifying
883 specific regions or municipalities that have the potential to be
884 developed into a life sciences cluster; and (ix) facilitating the
885 regional development and implementation of section 10A of
886 chapter 23A.

887 (c) The executive director, or his equivalent, of the 5 regional
888 technology and innovation centers shall meet from time to time
889 with the center to exchange information; identify regional needs

890 including, but not limited to, any assistance needed in fulfilling
891 the regional centers' purposes as provided in subsection (b); and
892 advise the center on the effectiveness of programs administered by
893 the center.

894 (d) Each regional technology and innovation center shall pro-
895 vide an annual report to the center containing such information as
896 may be required by the center to evaluate the progress of each
897 regional center. The center may withdraw a designation as a
898 regional technology and innovation center if a regional center
899 does not satisfactorily meet the purposes of subsection (b), and as
900 provided in any rules, regulations or guidelines established by the
901 center.

902 Section 12. There shall be an 18-member advisory board to be
903 appointed by the governor to advise the center. The members
904 shall include: 10 of whom shall be active members of the Massa-
905 chusetts Life Sciences Collaborative, at least 2 of whom shall rep-
906 resent small businesses; 5 of whom shall be the chancellors at the
907 University of Massachusetts at Amherst, Boston, Dartmouth,
908 Lowell and Worcester, or their designees; and 3 of whom shall be
909 patient advocates with significant interaction or experience in the
910 life sciences. The secretary of labor and workforce development
911 or his designee, and the 5 executive directors of the regional tech-
912 nology and innovation centers, established pursuant to section 11,
913 shall serve as ex-officio, non-voting members of the advisory
914 board.

915 Each member shall serve for a term of 3 years, except that in
916 making his initial appointments, the governor shall appoint 5
917 members to serve for a term of 1 year, 3 members to serve for a
918 term of 2 years, 5 members for a term of 3 years. Any person
919 appointed to fill a vacancy in the office of a member of the advi-
920 sory board shall be appointed in a like manner and shall serve for
921 only the unexpired term of the member who vacated. Members
922 shall be eligible for reappointment. Any member may be removed
923 by the governor for cause. The advisory board shall meet at least
924 bi-annually, but shall meet as often as the members shall deter-
925 mine, or at such other intervals as established by the executive
926 director to review recommendations made by the board. The
927 members of the advisory board shall serve without compensation,
928 but each member shall be entitled to reimbursement for his actual

929 and necessary expenses incurred in the performance of his official
930 duties.

931 The duties of the advisory board shall be to advise the center
932 and the board concerning: research and development in the life
933 sciences; development of products and the effectiveness of public
934 and private initiatives to further product development; manufac-
935 turing and commercialization of biotechnology, pharmaceuticals,
936 medical diagnostic products or such other areas within the life
937 sciences; identifying candidates and providing recommendations
938 for the 5 regional technology and innovation centers as estab-
939 lished in section 11; and any other area as requested by the board.

940 The advisory board shall not be a state agency for the purposes
941 of chapter 268A and shall not be subject to section 11A½ of
942 chapter 30A or chapter 66.

943 Section 13. The center shall develop a comprehensive,
944 internet-based life sciences sector database for the organization of
945 all relevant information, as determined by the center, related to the
946 life sciences sector in the commonwealth. Access to said database
947 shall be limited at the discretion of the center's executive director.
948 Any documentary materials or data received by the center from
949 any entity, private or public, for the express purpose of adding
950 information to the life science database shall be exempt from
951 section 10 of chapter 66 and the board may hold any discussion or
952 consideration of database materials in executive session closed to
953 the public, notwithstanding the provisions of section 11A½ of
954 chapter 30A, but the purpose of any such executive session shall
955 be set forth in the official minutes of the center and business not
956 directly related to such purpose shall not be transacted nor shall
957 any vote be taken during such executive session.

958 Section 14. (a) The exercise of the powers granted by this
959 chapter shall be for the benefit of the people of the commonwealth
960 and for the improvement of their health and living conditions; and
961 as the operation of the center shall constitute the performance of
962 essential governmental functions, the center shall not be required
963 to pay any taxes or assessments, except as otherwise provided by
964 this chapter, and the notes or bonds issued under this chapter, their
965 transfer and the income therefrom, including any profit made on
966 the sale thereof, at all times shall be free from taxation by and
967 within the commonwealth.

968 (b) The lands and tangible personal property of the center shall
969 be deemed to be public property used for essential public and gov-
970 ernmental purposes and shall be exempt from taxation and from
971 betterments and special assessments.

972 Section 15. The center shall annually complete a detailed
973 report setting forth its operations and accomplishments; its
974 receipts and expenditures during such fiscal year; its assets and
975 liabilities at the end of its fiscal year; the anticipated return on
976 investment to the commonwealth from the investment of funds
977 administered by the center during such fiscal year; a complete
978 report detailing all companies classified as a certified life sciences
979 company; a complete list of grants awarded by the center; a list of
980 other funding activities; reports of patents or products resulting
981 from funded activities; the status of construction of any real estate
982 project resulting from certification, including whether construc-
983 tion is on-time and on-budget; and a tracking of job creation as a
984 result of funded projects. The center shall annually submit the
985 report to the governor, the secretary of administration and finance,
986 the state comptroller and the clerks of the house of representatives
987 and senate, who shall forward the same to the house and senate
988 committee on ways and means and the joint committee on eco-
989 nomic development and emerging technologies on or before
990 October 1. The report shall be posted on the internet in a manner
991 accessible to the public.

992 Section 16. The books and records of the center shall be sub-
993 ject to a biennial audit by the auditor of the commonwealth.

994 Section 17. (1)(a) Notwithstanding the provisions of chapter 32,
995 or of any general or special law to the contrary, the center shall
996 establish 1 or more optional retirement programs that qualify
997 under section 401, 408 or 457 of Internal Revenue Code, as may
998 be amended from time to time, or contracts providing retirement
999 and death benefits may be purchased by employees of the center
1000 who elect to participate in the program. The benefits offered to
1001 employees of the center in such optional retirement program shall
1002 be provided through such custodial accounts or individual or
1003 group annuity contracts, which may be fixed or variable in nature,
1004 or a combination thereof; provided, that at all times, those annuity
1005 contracts issued by licensed insurers under the optional retirement
1006 program shall provide the minimum values and guarantees

1007 required by the laws governing such contracts in the common-
1008 wealth; and provided, further, that the benefits shall be payable
1009 only to employees of the center in the program or their beneficia-
1010 rics, and such benefits shall be paid only by the selected providers
1011 in accordance with the terms of the custodial accounts, annuity
1012 contracts or certificates providing coverage to the employee of the
1013 center; and provided, further, that such optional retirement pro-
1014 gram shall not allow an employee of the center to withdraw con-
1015 tributions while an active participant in the center's optional
1016 retirement program.

1017 (b) The center shall select at least 2 but no more than 4
1018 providers for the optional retirement program and enter into con-
1019 tracts with them in accordance with the laws governing the pro-
1020 curement of services for executive agencies of the commonwealth,
1021 provided, further, that the selected providers shall be authorized to
1022 conduct business within the commonwealth, and each and every
1023 provider or issuer of annuity contracts under the optional retire-
1024 ment program which is a life insurance company shall hold a
1025 certificate of authority to do life insurance business in the com-
1026 monwealth, maintain the minimum required capital and surplus
1027 required for life insurance companies under the laws of the com-
1028 monwealth, be a member of the commonwealth's life and health
1029 insurance guaranty association and be a member of the life and
1030 health insurance guaranty associations in any and all jurisdictions
1031 where required by law with similar retirement programs funded in
1032 whole or in part through the provider's annuities in which
1033 employees of the center participating in the optional retirement
1034 program may participate upon transfer of employment; and pro-
1035 vided, further, that said board shall coordinate the transfer of
1036 funds and information between payroll centers, the selected
1037 providers and employees of the center participating in the plan.

1038 (2)(a) Participation in the optional retirement program provided
1039 by this section shall be limited to employees of the center who are
1040 otherwise eligible for membership in the state employees' retire-
1041 ment system as established under the provisions of chapter 32.

1042 (b) Elections to participate in the optional retirement program
1043 shall be made as follows:

1044 (i) Any eligible employee of the center who is initially
1045 appointed on or after the effective date of the optional retirement

1046 program may elect in writing to participate in the optional retire-
1047 ment program within 90 days of the effective date of the appoint-
1048 ment. Any such election shall be effective as of the effective date
1049 of appointment. If an eligible employee of the center fails to make
1050 an election as provided in this paragraph, such employee shall
1051 become a member of the state employees' retirement system
1052 established under the provisions of said chapter 32.

1053 (ii) Any eligible employee of the center who is a member of
1054 any retirement system established by the provisions of said
1055 chapter 32 on the effective date of the optional retirement program
1056 but who has less than 10 years of creditable service on the effec-
1057 tive date of the optional retirement program may elect in writing
1058 to participate in the optional retirement program within 90 days
1059 after the effective date of the optional retirement program. Any
1060 such election shall become effective on the first day of the next
1061 pay period following such election, and shall constitute a waiver
1062 of all retirement benefits to which the individual may be entitled
1063 as an employee under any retirement system established under the
1064 provisions of said chapter 32.

1065 (iii) Any employee of the center who is a member of any retire-
1066 ment system established by the provisions of said chapter 32 but
1067 who has less than 10 years of creditable service on the date such
1068 employee becomes eligible to participate in the optional retire-
1069 ment program may elect in writing to participate in such optional
1070 retirement program within 90 days of the date said employee
1071 becomes eligible. Any such election shall become effective on the
1072 first day of the next pay period following such election, and shall
1073 constitute a waiver of all retirement benefits to which the indi-
1074 vidual may be entitled as an employee under any retirement
1075 system established by the provisions of said chapter 32.

1076 (iv) Any eligible employee of the center electing to participate
1077 in the optional retirement program shall be ineligible for member-
1078 ship in the state employees' retirement system while he remains
1079 continuously employed by the center; provided, that the election
1080 by an eligible employee to participate in the optional retirement
1081 program shall be irrevocable while the employee continues to
1082 meet the eligibility requirements; provided, however, that if an
1083 employee becomes ineligible to continue in the optional retire-
1084 ment program, the employee shall thereafter participate in the

1085 state employees' retirement system established in accordance with
1086 the provisions of said chapter 32.

1087 (3)(a) Any eligible employee of the center electing to partici-
1088 pate in the optional retirement program shall not be required to
1089 make contributions to the state employee's retirement system but
1090 shall contribute to the optional retirement program an amount
1091 equal to the contribution which would have been required had
1092 such employee been a member of the state employees' retirement
1093 system.

1094 (b) For each eligible employee of the center electing to partici-
1095 pate in the optional retirement program, the center shall contribute
1096 an amount equal to 5 per cent of each employee's regular compen-
1097 sation, as defined in section 1 of chapter 32, to the optional retire-
1098 ment program and a plan established to provide life and disability
1099 benefits to all participants in the program; provided, however, that
1100 not more than 1 per cent of said contribution shall be made to the
1101 plan established to provide said life and disability benefits; pro-
1102 vided, further, that the balance of said contribution shall be
1103 remitted to the appropriate provider for application to the partici-
1104 pating employee's contract or custodial account, less any monthly
1105 fees established by the board in order to cover the reasonably
1106 necessary direct costs incurred by the board in establishing and
1107 administering the plan.

1108 (c) If any eligible employee of the center is a member of any
1109 retirement system established by the provisions of said chapter 32
1110 at the time such employee elects to participate in the optional
1111 retirement program, the employee may direct that the amount of
1112 the accumulated total deductions, and any interest to which the
1113 employee would be entitled under said chapter 32 if the employee
1114 withdrew from the system, credited to such employee's account in
1115 such retirement system be transferred directly to such employee's
1116 account in the optional retirement program. Any such transfer
1117 shall be made in the form of a direct trustee-to-trustee transfer in
1118 compliance with the requirements of subchapter D of chapter 1 of
1119 the Internal Revenue Code.

1120 (d) The funds accumulated under the optional retirement pro-
1121 gram shall be exempt from taxation. The rights of a participant to
1122 a custodial account, an annuity, the annuity contracts or certifi-
1123 cates providing coverage to participants, and all right in and to the

1124 funds accumulated under the custodial accounts, annuity contracts
1125 or certificates shall be exempt from taxation, including income
1126 taxes levied under the provisions of said chapter 62. No assign-
1127 ment of any right in or to any funds or annuities under the
1128 optional retirement program shall be valid except such assignment
1129 as may be made for the purpose of making restitution in the case
1130 of dereliction from duty by any participant as established in
1131 section 15 of said chapter 32 if such assignment does not violate
1132 the restrictions of the Internal Revenue Code; provided that
1133 nothing in this section shall prevent a participant's custodial
1134 account or annuity from being attached, taken on execution,
1135 assigned, or subject to other process to satisfy a support order
1136 under chapters 208, 209, or 273 if such order constitutes a quali-
1137 fied domestic relations order under the terms of the Internal
1138 Revenue Code.

1139 (e) Any eligible employee of the center enrolled in the optional
1140 retirement program who retires and wishes to retain his group
1141 insurance coverage as provided in chapter 32A, or retires and
1142 wishes to enroll in group insurance coverage pursuant to said
1143 chapter 32A, may do so in the same manner, and subject to the
1144 same limitations and requirements as an active employee member
1145 of the state employees' retirement system. Any eligible employee
1146 of the center enrolled in the optional retirement program who
1147 retains or enrolls in the group insurance coverage upon retirement
1148 shall be deemed to have authorized his optional retirement pro-
1149 gram plan provider to deduct from the retired employees account,
1150 on a monthly basis, and forward to the group insurance commis-
1151 sion, an amount equal to the retired employee's share of the
1152 premium as set by said chapter 32A and each annual appropriation
1153 act. Each optional retirement program plan provider shall be
1154 required to deduct and forward said premium amounts, as deter-
1155 mined by the group insurance commission, to the group insurance
1156 commission in advance of the month for which the premium is
1157 due and in a manner as may be prescribed by the group insurance
1158 commission. For group insurance commission purposes
1159 employees who were members of the state retirement system
1160 when they became eligible to participate in the optional retirement
1161 program, and who then enrolled in the optional retirement pro-
1162 gram, may add their time in the state retirement system to their

1163 time in the optional retirement program in determining years of
1164 creditable service.

1165 (f) No contribution shall be made under any provision of this
1166 section in excess of, or on the basis of compensation in excess of,
1167 any limitation that may be imposed pursuant to federal law
1168 including, but not limited to, the limitations in 26 U.S.C.
1169 sections 401(a)(17), 402(g), 403(b) and 415, to the extent such
1170 limitations apply. The center may adopt rules and regulations as it
1171 deems necessary to carry out the purposes of this section
1172 including, but not limited to, rules or regulations establishing such
1173 limitations only when it determines that such limitations are
1174 necessary to comply with applicable provisions of the Internal
1175 Revenue Code.

1 SECTION 14. Section 5 of said chapter 23I, as appearing in
2 section 14, is hereby amended by striking out subsection (d).

1 SECTION 15. Section 1 of chapter 32 of the General Laws, as
2 appearing in the 2006 Official Edition, is hereby amended by
3 inserting after the word “connector”, in line 211, the following
4 words:— , the Massachusetts Life Sciences Center, except those
5 employees of the center opting to participate in an optional retire-
6 ment plan established by the center pursuant to section 17 of
7 chapter 23I.

1 SECTION 16. Section 2 of chapter 32A of the General Laws is
2 hereby amended by inserting after the word “authority”, in
3 line 12, as so appearing, the following words:— , the Massachu-
4 setts Life Sciences Center.

1 SECTION 17. Section 6 of chapter 62 of the General Laws, as
2 most recently amended by section 4 of chapter 63 of the acts of
3 2007, is hereby further amended by adding the following 2 sub-
4 sections:—

5 (m) (1) As used in this subsection and in subsection (n), the
6 following words shall, unless the context clearly requires other-
7 wise, have the following meanings:—

8 “Life sciences”, advanced and applied sciences that expand the
9 understanding of human physiology and have the potential to lead

10 to medical advances or therapeutic applications including, but not
11 limited to, agricultural biotechnology, biogenerics, bioinformatics,
12 biomedical engineering, biopharmaceuticals, biotechnology,
13 chemical synthesis, chemistry technology, diagnostics, genomics,
14 image analysis, marine biology, marine technology, medical
15 devices, nanotechnology, natural product pharmaceuticals, pro-
16 teomics, regenerative medicine, RNA interference, stem cell
17 research and veterinary science.

18 “Person”, a natural person, corporation, association, partnership
19 or other legal entity.

20 “Primarily”, more than 50 per cent.

21 “Research and development costs”, in-house research expenses
22 within the meaning of section 41(b)(2) of the Internal Revenue
23 Code.

24 “Taxpayer”, a certified life sciences company or person subject
25 to the taxes imposed by chapters 62, 63, 64H or 64I.

26 “User fees”, the monetary amount actually paid by a taxpayer
27 to the U.S.F.D.A. that constitutes the fee due upon the submission
28 of a human drug application or supplement pursuant to 21 U.S.C.
29 section 379h(a)(1) for a human drug, the research and develop-
30 ment costs of which, were primarily incurred in the common-
31 wealth.

32 “U.S.F.D.A.”, the United States Food and Drug Administration.

33 (2) A taxpayer may, to the extent authorized pursuant to the
34 life sciences tax incentive program established by section 5 of
35 chapter 23I, take a credit against the taxes imposed by this chapter
36 in an amount equal to 10 per cent of the cost of qualifying prop-
37 erty acquired, constructed, reconstructed or erected during the tax-
38 able year and used exclusively in the commonwealth.

39 Qualifying property shall be tangible personal property and
40 other tangible property including buildings and structural compo-
41 nents of buildings acquired by purchase, as defined by
42 section 179(d) of the Internal Revenue Code, as amended and in
43 effect for the taxable year, but not including property that is tax-
44 able under chapter 60A; provided, however, that such property
45 shall be depreciable under section 167 of the Internal Revenue
46 Code and have a useful life of 4 years or more. With respect to
47 property which is disposed of or ceases to be in qualified use prior
48 to the end of the taxable year in which the credit is to be taken, the

49 amount of the credit shall be that portion of the credit provided for
50 in this paragraph which represents the ratio which the months of
51 qualified use bear to the months of useful life. If property on
52 which credit has been taken is disposed of or ceases to be in quali-
53 fied use prior to the end of its useful life, the difference between
54 the credit taken and the credit allowed for actual use must be
55 added back as additional taxes due in the year of disposition; pro-
56 vided, however, if such property is disposed of or ceases to be in
57 qualified use after it has been in qualified use for more than
58 twelve consecutive years, it shall not be necessary to add back the
59 credit, as provided in this paragraph. The amount of credit
60 allowed for actual use shall be determined by multiplying the
61 original credit by the ratio which the months of qualified use bear
62 to the months of useful life. For the purposes of this paragraph,
63 useful life of property shall be the same as that used by the corpo-
64 ration for depreciation purposes when computing federal income
65 tax liability.

66 A taxpayer taking a credit allowed under this subsection may
67 not take the credit allowed by subsection (g) except to such
68 extent, not to exceed 2 per cent of the cost of any qualifying prop-
69 erty, as may be provided in a certification pursuant to said
70 section 5 of chapter 23I.

71 Nothing in this section shall limit the authority of the commis-
72 sioner to make adjustments to a taxpayer's liability upon audit or
73 limit any other legal remedies available to the commissioner or
74 the commonwealth against said taxpayer.

75 (3) Any taxpayer entitled to a credit under this section for any
76 taxable year may, to the extent authorized pursuant to the life sci-
77 ences tax incentive program established by said section 5 of said
78 chapter 23I, carry over and apply to its tax for any 1 or more of
79 the next succeeding 10 taxable years, the portion, as reduced from
80 year to year, of those credits which exceed the tax for the taxable
81 year.

82 (4) The commissioner in consultation with the Massachusetts
83 Life Sciences Center established by section 3 of chapter 23I, shall
84 promulgate regulations necessary for the administration of this
85 subsection; provided, further, that said regulations may provide
86 the adjustment of intercompany prices and elimination of inter-
87 company transactions to ensure that all amounts upon which the

88 credit is based reasonably reflect fair market value; and provided,
89 further, that said regulations shall include provisions to prevent
90 the generation of multiple credits with respect to the same prop-
91 erty.

92 (5) If a credit allowed under this subsection, or such credit as
93 may be allowed under subsection (g) as limited in this subsection,
94 exceeds the tax otherwise due under chapter 62, 90 per cent of the
95 balance of such credit may, at the option of the taxpayer and to the
96 extent authorized pursuant to the life sciences tax incentive pro-
97 gram established by section 5 of chapter 23I, be refundable to the
98 taxpayer for the taxable year in which qualified property giving
99 rise to that credit is placed in service. If such credit balance is
100 refunded to the taxpayer, then the credit carryover provisions of
101 paragraph (3), and paragraph (2) of subsection (g), shall not apply.

102 (n) (1) Except as otherwise limited by subsection (4), a tax-
103 payer may, to the extent authorized pursuant to the life sciences
104 tax incentive program established by said section 5 of said
105 chapter 23I, be allowed a refundable credit against the tax liability
106 imposed under this chapter in an amount equal to 100 per cent of
107 the cost of user fees paid by such taxpayer.

108 (2) A taxpayer shall claim the credit in the taxable year in
109 which its application for the licensure of an establishment to man-
110 ufacture the human drug in the commonwealth is approved by the
111 U.S.F.D.A.

112 (3) If a credit allowed to a taxpayer exceeds the tax otherwise
113 due under chapter 62, 90 per cent of the balance of that credit
114 may, to the extent authorized pursuant to the life sciences tax
115 incentive program established by section 5 of said chapter 23I, be
116 refundable to the taxpayer for the taxable year in which the credit
117 is claimed.

118 (4) The deduction from gross income that may be taken with
119 respect to any expenditures qualifying for the credit under this
120 section shall be disallowed to the extent of the credit.

121 (5) Only user fees paid by a taxpayer to the U.S.F.D.A. on or
122 after the effective date of this section shall be eligible for the
123 credit.

1 SECTION 18. Said section 6 of said chapter 62 is hereby fur-
2 ther amended by striking out subsections (m) and (n), inserted by
3 section 17.

1 SECTION 19. Section 30 of chapter 63 of the General Laws,
2 as appearing in the 2006 Official Edition, is hereby amended by
3 adding the following paragraph:—

4 17. Notwithstanding the last sentence in subparagraph (b) of
5 paragraph 5, to the extent authorized pursuant to the life sciences
6 tax incentive program established by section 5 of chapter 23I,
7 losses sustained in any taxable year by a taxpayer engaged in
8 business as a life sciences company as defined by section 2 of
9 chapter 23I may, to the extent approved pursuant to said life sci-
10 ences tax incentive program, be carried forward for not more than
11 15 years; provided, however, that said losses shall not be carried
12 back.

1 SECTION 20. Said section 30 of said chapter 63 is hereby
2 further amended by striking out paragraph 17, inserted by
3 section 19.

1 SECTION 21. Said chapter 63 is hereby further amended by
2 inserting after section 31L the following section:—

3 Section 31M. (a) As used in this section, the following words
4 shall, unless the context otherwise requires, have the following
5 meanings:—

6 “Life sciences”, advanced and applied sciences that expand the
7 understanding of human physiology and have the potential to lead
8 to medical advances or therapeutic applications including, but not
9 limited to, agricultural biotechnology, biogenerics, bioinformatics,
10 biomedical engineering, biopharmaceuticals, biotechnology,
11 chemical synthesis, chemistry technology, diagnostics, genomics,
12 image analysis, marine biology, marine technology, medical
13 devices, nanotechnology, natural product pharmaceuticals, pro-
14 teomics, regenerative medicine, RNA interference, stem cell
15 research and veterinary science.

16 “Person”, a natural person, corporation, association, partnership
17 or other legal entity.

18 “Primarily”, more than 50 per cent.

19 “Research and development costs”, in-house research expenses
20 within the meaning of section 41(b)(2) of the Internal Revenue
21 Code.

22 “Taxpayer”, a certified life sciences company or person subject
23 to the taxes imposed by chapters 62, 63, 64H or 64I.

24 “User fees”, the monetary amount actually paid by a taxpayer
25 to the U.S.F.D.A. that constitutes the fee due upon the submission
26 of a human drug application or supplement pursuant to 21 U.S.C.
27 section 379h(a)(1) for a human drug, the research and develop-
28 ment costs of which, were primarily incurred in the common-
29 wealth.

30 “U.S.F.D.A.”, the United States Food and Drug Administration.

31 (b) Except as otherwise limited by subsection (e), a taxpayer
32 may, to the extent authorized pursuant to the life sciences tax
33 incentive program established said section 5 of chapter 23I, be
34 allowed a refundable credit against the tax liability imposed under
35 this chapter in an amount equal to 100 per cent of the cost of user
36 fees paid by such company.

37 (c) A taxpayer shall claim the credit in the taxable year in
38 which its application for the licensure of an establishment to man-
39 ufacture the human drug in the commonwealth is approved by the
40 U.S.F.D.A.

41 (d) The credit allowed may reduce the excise due under sub-
42 section (b) of section 32, or subsection (b) of section 39. The
43 credit allowed to a taxpayer shall not be subject to the provisions
44 of section 32C. Where such credit allowed to a taxpayer exceeds
45 the excise otherwise due under said subsection (b) of section 32 or
46 subsection (b) of said section 39, 90 per cent of the balance of that
47 credit may, at the option of the taxpayer and to the extent autho-
48 rized pursuant to the life sciences tax incentive program estab-
49 lished by said section 5 of said chapter 23I, be refundable to the
50 taxpayer for the taxable year in which the credit is claimed.

51 If a taxpayer files as a member of a combined group and
52 applies its excess credit against the excise of another group
53 member, then the credit as applied to corporations other than such
54 taxpayer is not subject to section 32C and may reduce to zero the
55 excise due under subsection (b) of section 32, or subsection (b) of
56 section 39 and under any act in addition thereto. Where such
57 credit allowed to a taxpayer that is applied against the excise lia-
58 bility of such other corporations exceeds the excise otherwise due
59 to such corporations under this chapter, 90 per cent of the balance
60 of that credit may, at the option of the taxpayer and to the extent
61 authorized pursuant to the life sciences tax incentive program, be
62 refundable to the taxpayer for the taxable year in which the credit
63 is claimed.

64 (e) For the purposes of section 30, the deduction from gross
65 income that may be taken with respect to any expenditures quali-
66 fying for the credit under this section is disallowed to the extent of
67 the credit.

68 (f) Only user fees paid by a taxpayer to the U.S.F.D.A. on or
69 after the effective date of this section shall be eligible for the
70 credit.

1 SECTION 22. Section 31M of said chapter 63 is hereby
2 repealed.

1 SECTION 23. Section 38 of said chapter 63, as appearing in
2 the 2006 Official Edition, is hereby amended by striking out, in
3 line 162, the word “and”.

1 SECTION 24. Said section 38 of said chapter 63, as so
2 appearing, is hereby further amended by inserting after the word
3 “contracts”, in line 169, the following:— ; and (6) to the extent
4 authorized pursuant to the life sciences tax incentive program
5 established by section 5 of chapter 23I, a certified life sciences
6 company, as defined by section 5 of chapter 23I, may be deemed
7 to be taxable in the state of the purchaser if the property of the
8 project is delivered or shipped to a purchaser in another state.

1 SECTION 25. Said section 38 of said chapter 63 is hereby fur-
2 ther amended by striking out clause (6), inserted by section 24.

1 SECTION 26. Section 38C of said chapter 63, as appearing in
2 the 2006 Official Edition, is hereby amended by adding the
3 following paragraph:—

4 To the extent authorized pursuant to the life sciences tax incen-
5 tive program established by section 5 of chapter 23I, a certified
6 life sciences company may be deemed a research and development
7 corporation for purposes of exemptions under chapters 64H and
8 64I.

1 SECTION 27. Said section 38C of said chapter 63 is hereby
2 further amended by striking out the fourth paragraph, inserted by
3 section 26.

1 SECTION 28. Section 38M of said chapter 63, as appearing in
2 the 2006 Official Edition, is hereby amended by adding the
3 following subsection:—

4 (j)(1) As used in this section, the following words shall, unless
5 the context clearly requires otherwise, have the following mean-
6 ings:—

7 “Life sciences”, advanced and applied sciences that expand the
8 understanding of human physiology and have the potential to lead
9 to medical advances or therapeutic applications including, but not
10 limited to, agricultural biotechnology, biogenerics, bioinformatics,
11 biomedical engineering, biopharmaceuticals, biotechnology,
12 chemical synthesis, chemistry technology, diagnostics, genomics,
13 image analysis, marine biology, marine technology, medical
14 devices, nanotechnology, natural product pharmaceuticals, pro-
15 teomics, regenerative medicine, RNA interference, stem cell
16 research and veterinary science.

17 “Person”, a natural person, corporation, association, partnership
18 or other legal entity.

19 “Taxpayer”, a certified life sciences company or person subject
20 to the taxes imposed by chapter 62, 63, 64H or 64I.

21 (2) If a credit claimed under this section by a taxpayer exceeds
22 the amount that may otherwise be allowed under this section for a
23 taxable year, 90 per cent of the balance of that credit may, at the
24 option of the taxpayer and to the extent authorized pursuant to the
25 life sciences tax incentive program established by section 5 of
26 chapter 23I, be refundable to the taxpayer for the taxable year. If
27 such credit balance is refunded to the taxpayer, then the credit car-
28 ryover provisions of paragraph (f) shall not apply.

1 SECTION 29. Said section 38M of said chapter 63 is hereby
2 further amended by striking out paragraph (j), added by
3 section 28.

1 SECTION 30. Said chapter 63 is hereby further amended by
2 inserting after section 38T the following 3 sections:—

3 Section 38U. (a) As used in this section, section 38V and
4 section 38W, the following words shall, unless the context clearly
5 requires otherwise, have the following meanings:—

6 “Life sciences”, advanced and applied sciences that expand the
7 understanding of human physiology and have the potential to lead
8 to medical advances or therapeutic applications including, but not
9 limited to, agricultural biotechnology, biogenerics, bioinformatics,
10 biomedical engineering, biopharmaceuticals, biotechnology,
11 chemical synthesis, chemistry technology, diagnostics, genomics,
12 image analysis, marine biology, marine technology, medical
13 devices, nanotechnology, natural product pharmaceuticals, pro-
14 teomics, regenerative medicine, RNA interference, stem cell
15 research and veterinary science.

16 “Person”, a natural person, corporation, association, partnership
17 or other legal entity.

18 “Taxpayer”, a life sciences company or person subject to the
19 taxes imposed by this chapter or chapter 62, 64H or 64I.

20 (b) A taxpayer may, to the extent authorized pursuant to the
21 life sciences tax incentive program established by section 5 of
22 chapter 23I, take a credit against the taxes imposed by this chapter
23 in an amount equal to 10 per cent of the cost of qualifying prop-
24 erty acquired, constructed, reconstructed or erected during the tax-
25 able year and used exclusively in the commonwealth.

26 Qualifying property shall be tangible personal property and
27 other tangible property including buildings and structural compo-
28 nents of buildings acquired by purchase, as defined under
29 section 179(d) of the Code, as amended, and in effect for the tax-
30 able year, but not including property that is taxable under
31 chapter 60A; provided, however, that such property shall be
32 depreciable under section 167 of the Code and shall have a useful
33 life of 4 years or more.

34 With respect to property which is disposed of or ceases to be in
35 qualified use prior to the end of the taxable year in which the
36 credit is to be taken, the amount of the credit shall be that portion
37 of the credit provided for in this paragraph which represents the
38 ratio which the months of qualified use bear to the months of
39 useful life. If property on which credit has been taken is disposed
40 of or ceases to be in qualified use prior to the end of its useful life,
41 the difference between the credit taken and the credit allowed for
42 actual use must be added back as additional taxes due in the year
43 of disposition; provided, however, if such property is disposed of
44 or ceases to be in qualified use after it has been in qualified use

45 for more than twelve consecutive years, it shall not be necessary
46 to add back the credit, as provided in this paragraph. The amount
47 of credit allowed for actual use shall be determined by multiplying
48 the original credit by the ratio which the months of qualified use
49 bear to the months of useful life. For the purposes of this para-
50 graph, useful life of property shall be the same as that used by the
51 corporation for depreciation purposes when computing federal
52 income tax liability.

53 The credit allowed under this section may be taken by an eli-
54 gible corporation; provided, however, that neither credit allowed
55 by section 31A nor section 31H is taken by such corporation; and
56 provided, further, that the credit allowed by section 38N shall not
57 be taken except to such extent, not to exceed 2 per cent of the cost
58 of any qualifying property.

59 Nothing in this section shall limit the authority of the commis-
60 sioner to make adjustments to a taxpayer's liability upon audit or
61 limit any other legal remedies available to the commissioner or
62 the commonwealth against said taxpayer.

63 (c) The credit allowed by this section shall not be subject to
64 section 32C.

65 (d) If a taxpayer that is subject to a minimum excise under this
66 chapter, the amount of the credit allowed by this section shall not
67 reduce the excise to an amount less than such minimum excise.

68 (e) A taxpayer entitled to a credit under this section for any
69 taxable year may, to the extent authorized pursuant to the life sci-
70 ences tax incentive program established by section 5 of
71 chapter 23I, carry over and apply to its excise for any 1 or more of
72 the next succeeding 10 taxable years, the portion, as reduced from
73 year to year, of those credits which were not allowed by subsec-
74 tion (c) or which exceed the excise for the taxable year.

75 (f) For corporations filing a combined return of income under
76 section 32B, a credit generated by an individual member corpora-
77 tion under this section shall first be applied against the separately
78 determined excise attributable to that member, subject to the limi-
79 tations of subsection (d). A member corporation with an excess
80 credit may apply its excess credit against the excise of another
81 group member, to the extent that such other member corporation
82 may use additional credits under the limitation of paragraph (d).
83 Unused, unexpired credits generated by member corporations

84 shall be carried over from year to year by the individual corpora-
85 tion that generated the credit.

86 (g) The commissioner shall promulgate regulations necessary
87 to implement this section. Said regulations may provide for the
88 adjustment of intercompany prices and elimination of intercom-
89 pany transactions to ensure that all amounts upon which the credit
90 is based reasonably reflect fair market value and shall include pro-
91 visions to prevent the generation of multiple credits with respect
92 to the same property.

93 (h) If a credit allowed to a taxpayer under this section, or such
94 credit as may be allowed under section 38N of this chapter as lim-
95 ited in this subsection, exceeds the excise otherwise due under this
96 chapter, 90 per cent of the balance of such credit may, at the
97 option of the taxpayer and to the extent authorized pursuant to the
98 life sciences tax incentive program established by section 5 of
99 chapter 23I, be refundable to the taxpayer for the taxable year in
100 which qualified property giving rise to that credit is placed in
101 service. If such credit balance is refunded to the taxpayer, the
102 credit carryover provisions of subsection (e) and said section 38N
103 shall not apply.

104 Section 38V. A taxpayer which is a certified life sciences com-
105 pany pursuant to section 5 of chapter 23I may, to the extent autho-
106 rized pursuant to the life sciences tax incentive program
107 established by said section 5 of chapter 23I, be allowed a deduc-
108 tion under paragraph 4 of section 30 for that portion of qualified
109 clinical testing expenses paid or incurred for the taxable year
110 equal to the amount of the credit allowable for the taxable year
111 under section 45C of the Internal Revenue Code and otherwise
112 disallowed as a deduction under section 280C(b) of said Code.

113 Section 38W. (a) A taxpayer may, to the extent authorized pur-
114 suant to the life sciences tax incentive program established by
115 section 5 of chapter 23I, be allowed a credit against its excise due
116 under this chapter equal to the sum of 10 per cent of the excess, if
117 any, of the qualified research expenses for the taxable year, over
118 the base amount, and 15 per cent of the basic research payments
119 determined pursuant to section 41(e)(1)(A) of the Internal Rev-
120 enue Code. The terms “qualified research expenses”, “base
121 amount”, “qualified organization base period amount”, “basic
122 research” and any other terms affecting the calculation of the

123 credit shall, unless the context otherwise requires or unless other-
124 wise stated in this section, have the same meanings as under said
125 section 41 of said Code.

126 In determining the amount of the credit allowable under this
127 section, the commissioner of revenue may aggregate the activities
128 of all corporations that are members of a controlled group of cor-
129 porations, as defined by 41(f)(1)(A) of said Code, and may aggre-
130 gate the activities of all entities, whether or not incorporated, that
131 are under common control, as defined in section 41(f)(1)(B) of
132 said Code.

133 (b) For a qualified life science company, research and develop-
134 ment costs, within the meaning of section 41 of said Code, shall
135 include, to the extent they relate to legally mandated clinical trial
136 activities, those qualified research expenditures that are performed
137 both inside and outside of the commonwealth.

138 (c) For purposes of section 30, the deduction from gross income
139 that may be taken with respect to any expenditures qualifying for
140 a credit under said section 41 of said Code shall be based upon its
141 cost less the credit allowable under this section; provided, how-
142 ever, that section 280C(c) of said Code shall not apply.

143 (d) The credit allowed hereunder for any taxable year shall not
144 reduce the excise to less than the amount due under subsection (b)
145 of section 32, subsection (b) of section 39, section 67 or under any
146 other general or special law.

147 (e) The credit allowed under this section shall be limited to 100
148 per cent of a corporation's first \$25,000 of excise, as determined
149 before the allowance of any credits, plus 75 per cent of the corpo-
150 ration's excise, as so determined in excess of \$25,000. The com-
151 missioner of revenue shall promulgate regulations similar to those
152 authorized under section 38(c)(2)(B) of the Internal Revenue
153 Code for purposes of apportioning the \$25,000 amount among
154 members of a controlled group. Nothing in this section shall alter
155 section 32C, as it affects other credits under this chapter.

156 (f) If a corporation files a combined return of income under
157 section 32B, a credit generated by an individual member corpora-
158 tion under this section shall first be applied against the excise
159 attributable to that company under sections 32 or 39, subject to
160 the limitations of subsections (d) and (e). A member corporation
161 with an excess research and development credit may apply its

162 excess credit against the excise of another group member if such
163 other member corporation may use additional credits under the
164 limitations of said subsections (d) and (e). Unused, unexpired
165 credits generated by a member corporation shall be carried over
166 from year to year by the individual corporation that generated the
167 credit and shall not be refundable. Nothing in this section shall
168 alter subsection (h) of section 31A.

169 (g) A corporation entitled to a credit under this section for any
170 taxable year may carry over and apply to its excise for any of the
171 next succeeding 15 taxable years that portion, as reduced from
172 year to year, of its credit which exceeds its excise for the taxable
173 year. A corporation may carry over and apply to its excise for any
174 subsequent taxable year that portion, as reduced from year to year,
175 of those credits which were not allowed by subsection (f).

176 (h) The commissioner of revenue shall promulgate regulations
177 necessary to carry out this section.

1 SECTION 31. Sections 38U, 38V and 38W of said chapter 63
2 are hereby repealed.

1 SECTION 32. Section 42B of said chapter 63, as appearing in
2 the 2006 Official Edition, is hereby amended by adding the
3 following paragraph:—

4 To the extent authorized pursuant to the life sciences tax incen-
5 tive program established by section 5 of chapter 23I, a certified
6 life sciences company may be deemed a research and development
7 corporation for purposes of exemptions under chapters 64H and
8 64I.

1 SECTION 33. Said section 42B of said chapter 63 is hereby
2 further amended by striking out the last paragraph, added by
3 section 32.

1 SECTION 34. Section 6 of chapter 64H of the General Laws,
2 as amended by section 12 of chapter 63 of the acts of 2007, is
3 hereby further amended by adding the following paragraph:—

4 (xx) (1) Sales of tangible personal property purchased for a
5 certified life sciences company, to the extent authorized pursuant
6 to the life sciences tax incentive program established by section 5

7 of chapter 23I, for use in connection with the construction, alter-
8 ation, remodeling, repair or remediation of research, development
9 or manufacturing facilities and utility support systems. Only pur-
10 chases made on or after the effective date of this section shall be
11 eligible for this exemption.

12 (2) As used in this section, the following words shall, unless
13 the context clearly requires otherwise, have the following mean-
14 ings:—

15 “Life sciences”, advanced and applied sciences that expand the
16 understanding of human physiology and have the potential to lead
17 to medical advances or therapeutic applications including, but not
18 limited to, agricultural biotechnology, biogenerics, bioinformatics,
19 biomedical engineering, biopharmaceuticals, biotechnology,
20 chemical synthesis, chemistry technology, diagnostics, genomics,
21 image analysis, marine biology, marine technology, medical
22 devices, nanotechnology, natural product pharmaceuticals, pro-
23 teomics, regenerative medicine, RNA interference, stem cell
24 research and veterinary science.

25 “Life sciences company”, a business corporation, partnership,
26 firm, unincorporated association or other entity engaged in life
27 sciences research, development, manufacturing or commercializa-
28 tion in the commonwealth, and any affiliate thereof, which is, or
29 the members of which are, subject to taxation under this chapter.

30 “Utility support systems”, all areas of utility support systems
31 including, but not limited to, site, civil, mechanical, electrical and
32 plumbing systems.

1 SECTION 35. Said section 6 of said chapter 64H is hereby fur-
2 ther amended by striking out paragraph (xx), added by section 34.

1 SECTION 36. Notwithstanding any general or special law to
2 the contrary, the University of Massachusetts at Dartmouth shall
3 acquire from the Massachusetts Development Finance Agency the
4 land and improvements thereon located at 151 Martine street in
5 the city of Fall River together with the accessory parking lot
6 owned by the Massachusetts Development Finance Agency
7 located on the north side of Martine street, hereinafter collectively
8 referred to as the Advanced Technology Manufacturing Center,
9 for an amount not to exceed \$11,400,000 and pursuant to such

10 other terms as the parties may mutually agree; provided, however,
11 that said conveyance shall be approved by the board of trustees of
12 the University of Massachusetts and the board of directors of
13 Massachusetts Development Finance Agency. The conveyance
14 shall be subject to a restrictive covenant prohibiting the University
15 of Massachusetts at Dartmouth from occupying more than 60 per
16 cent of the total square footage of the Advanced Technology Man-
17 ufacturing Center at any time. The University of Massachusetts at
18 Dartmouth shall retain any rent, license fees, appropriations,
19 grants, fees, or such other monies earned in connection with
20 owning and operating the Advanced Technology Manufacturing
21 Center and shall apply such revenues solely to offset the costs
22 associated with owning, operating, improving, leasing, licensing,
23 managing and maintaining the land and improvements that consti-
24 tute the Advanced Technology Manufacturing Center.

1 SECTION 37. Notwithstanding any general or special law to
2 the contrary, the Massachusetts Life Sciences Center, established
3 by section 3 of chapter 23I of the General Laws, in collaboration
4 with the Massachusetts International Trade Council shall, subject
5 to appropriation, facilitate and support joint academic and indus-
6 trial research and development and commercial business
7 exchanges between the commonwealth and Israel in the area of
8 life sciences; provided, further, that subject to appropriation, there
9 shall be established a trade and incubator facility in Israel and a
10 trade and incubator facility in Massachusetts facilitated by the
11 Massachusetts International Trade Council in consultation with
12 the Massachusetts office of international trade and investment,
13 established by section 24 of chapter 23A of the General Laws, for
14 collaborative, joint and pilot projects with the Government of the
15 State of Israel, the Boston Haifa International Life Sciences Insti-
16 tute and other organizations working with Israel.

1 SECTION 38. Notwithstanding any general or special law to
2 the contrary, the term of any member appointed prior to the effec-
3 tive date of this act to the board of directors of the Massachusetts
4 Life Sciences Center, established by section 3 of chapter 23I of
5 the General Laws, shall expire upon the effective date of this act;
6 provided, however, that any appointed board member whose term

7 has expired pursuant to this section shall be eligible for reappoint-
8 ment to the board. Such appointments shall be made in accor-
9 dance with section 3 of chapter 23I of the General Laws.

1 SECTION 39. Notwithstanding any general or special law to
2 the contrary, the Massachusetts Life Sciences Center established
3 by section 3 of chapter 23I of the General Laws, in consultation
4 with the department of agricultural resources, shall, subject to
5 appropriation, establish a program to promote the research and
6 development of plant-made pharmaceuticals and industrial prod-
7 ucts through field trials approved under a permit or approved noti-
8 fication by the Biotechnology Regulatory Service of the Animal
9 and Plant Health Inspection Service of the United States Depart-
10 ment of Agriculture.

1 SECTION 40. Notwithstanding any general or special law to
2 the contrary, the Massachusetts Life Sciences Center established
3 by section 3 of chapter 23I of the General Laws, in conjunction
4 with the office of the state treasurer, shall conduct an investigation
5 and study of the feasibility of vetting and bundling life sciences
6 enterprises for the purpose of securitization of enterprises to
7 create investment opportunities to provide seed capital for enter-
8 prises. For the purposes of this study, “enterprise” shall be defined
9 as a small business, as defined in chapter 40F of the General
10 Laws, with its principal place of business in the commonwealth
11 and which is, or proposes to be, engaged in manufacturing or
12 research and development in the area of life sciences. Said center
13 shall report to the general court the results of its investigation and
14 study and its recommendations, if any, together with drafts of leg-
15 islation necessary to carry its recommendations into effect by
16 filing the same with the clerks of the house of representatives and
17 the senate, who shall forward the same to the house and senate
18 committees on ways and means and the joint committee on eco-
19 nomic development and emerging technologies on or before
20 March 31, 2009.

1 SECTION 41. Notwithstanding any general or special law to
2 the contrary, the Massachusetts Life Sciences Center, established
3 by section 3 of chapter 23I of the General Laws, shall conduct an

4 investigation and study the feasibility of increasing the number of
5 clinical trials conducted or expediting the process of conducting
6 clinical trials in the commonwealth, by life sciences companies in
7 the commonwealth. Said center shall report to the general court
8 the results of its investigation and study and its recommendations,
9 if any, together with drafts of legislation necessary to carry its
10 recommendations into effect by filing the same with the clerks of
11 the house of representatives and the senate who shall forward the
12 same to the house of representatives and the senate committees on
13 ways and means, the joint committee on economic development
14 and emerging technologies, the joint committee on public health
15 and the joint committee on health care financing on or before
16 March 31, 2009.

1 SECTION 42. Notwithstanding any general or special law to
2 the contrary, the Massachusetts Life Sciences Center, established
3 by section 3 of chapter 23I of the General Laws, shall conduct an
4 investigation and study of ways to enhance coordination between
5 the angel investor community, so-called, and the life science
6 industry. Said center shall report to the general court the results of
7 its investigation and study and its recommendations, if any,
8 together with drafts of legislation necessary to carry its recom-
9 mendations into effect by filing the same with the clerks of the
10 house of representatives and the senate, who shall forward the
11 same to the house and senate committees on ways and means and
12 the joint committee on economic development and emerging tech-
13 nologies on or before March 31, 2009.

1 SECTION 43. Notwithstanding any general or special law to
2 the contrary, the Massachusetts Life Sciences Center, established
3 by section 3 of chapter 23I of the General Laws, in conjunction
4 with the appropriate state agencies, shall conduct an investigation
5 and study to assess the feasibility of developing and implementing
6 a program to engage and train community college students in the
7 area of life sciences. Said center shall report to the general court
8 the results of its investigation and study and its recommendations,
9 if any, together with drafts of legislation necessary to carry its rec-
10 ommendations into effect by filing the same with the clerks of the
11 house of representatives and the senate, who shall forward the

12 same to the joint committee on economic development and
13 emerging technologies, the joint committee on education and the
14 joint committee on labor and workforce development on or before
15 June 30, 2009.

1 SECTION 44. Notwithstanding any general or special law to
2 the contrary, the total administrative and operational expenses of
3 the Massachusetts Life Sciences Center established by section 3
4 of chapter 23I of the General Laws shall not exceed \$3,750,000
5 for fiscal year 2009; provided, further that said center shall con-
6 duct an investigation and study the center's annual operating
7 expenses including, but not limited to, lease payments, payroll and
8 contracted costs, to be used by the legislature to calculate annual
9 operating expenses for future fiscal years. Said center shall report
10 to the general court the results of its investigation and study and
11 its recommendations, if any, together with drafts of legislation
12 necessary to carry its recommendations into effect by filing the
13 same with the clerks of the house of representatives and the
14 senate, who shall forward the same to the house and senate com-
15 mittees on ways and means and the joint committee on economic
16 development and emerging technologies on or before December
17 31, 2008.

1 SECTION 45. Notwithstanding any general or special law to
2 the contrary, the department of revenue shall conduct an investiga-
3 tion and study including a detailed description and a numerical
4 accounting of all tax incentives awarded to life sciences compa-
5 nies certified by section 5 of chapter 23I of the General Laws,
6 including the value of tax incentives authorized pursuant to the
7 life sciences tax incentive program, as established by said
8 section 5 of said chapter 23I, for each year for which the project
9 was certified, and the value of tax incentives actually used as a
10 result of the project. Said center shall report to the general court
11 the results of its investigation and study and its recommendations,
12 if any, together with drafts of legislation necessary to carry its rec-
13 ommendations into effect by filing the same with the clerks of the
14 house of representatives and the senate, who shall forward the
15 same to the house and senate committees on ways and means, the
16 joint committee on economic development and emerging tech-

17 nologies and the joint committee on revenue annually on or before
18 June 30. Such report shall be posted on the internet in a manner
19 accessible to the public.

1 SECTION 46. To meet the expenditures necessary in carrying
2 out the provisions of section 2B, the state treasurer shall, upon
3 receipt of a request by the governor, issue and sell bonds of the
4 commonwealth in an amount to be specified by the governor from
5 time to time, but not exceeding, in the aggregate, \$500,000,000.
6 All bonds issued by the commonwealth, as aforesaid, shall be des-
7 ignated on their face, Life Sciences Center Capital Improvement
8 Loan Act of 2008, and shall be issued for a maximum term of
9 years, not exceeding 20 years, as the governor may recommend to
10 the general court pursuant to Section 3 of Article LXII of the
11 Amendments to the Constitution; provided, however, that all such
12 bonds shall be payable not later than June 30, 2033. All interest
13 and payments on account of principal on such obligations shall be
14 payable from the General Fund. Bonds and interest thereon issued
15 under the authority of this section shall, notwithstanding any other
16 provisions of this act, be general obligations of the common-
17 wealth.

1 SECTION 47. Notwithstanding any general or special law to
2 the contrary, only certified life sciences projects authorized under
3 section 5 of chapter 23I of the General Laws shall be eligible for
4 the available capital funding provided in item 7002-0015 in
5 section 2B.

1 SECTION 48. Notwithstanding any general or special law to
2 the contrary, a private entity engaged in a construction, develop-
3 ment, renovation, remodeling, reconstruction, rehabilitation or
4 redevelopment project receiving funds pursuant to this act shall
5 properly classify individuals employed on the project and shall
6 comply with all laws concerning workers' compensation insur-
7 ance coverage, unemployment insurance, social security taxes and
8 income taxes with respect to all such employees. All construction
9 contractors engaged by an entity on any such project shall furnish
10 documentation to the appointing authority showing that all
11 employees employed on the project have hospitalization and med-

12 ical benefits that meet the minimum requirements of the connector
13 board established in chapter 176Q of the General Laws.

1 SECTION 49. The value of any tax incentive award under the
2 life sciences tax incentive program established in subsection (d) of
3 section 5 of chapter 23I of the General Laws which extends
4 beyond December 31, 2018, including carry-forwards of losses or
5 credits, shall be taken into account during the year awarded and
6 the full amount of such tax benefits potentially realized in periods
7 after December 31, 2018 shall be counted against the annual ceil-
8 ings for years ending prior to January 1, 2019. Tax incentives
9 authorized pursuant to the life sciences tax incentive program
10 shall count toward this \$25,000,000 annual ceiling only if they are
11 not otherwise available to a taxpayer.

1 SECTION 50. Notwithstanding any general or special law to
2 the contrary, the sales tax exemption in paragraph (xx) in section 6
3 of chapter 64H of the General Laws shall apply to sales of tan-
4 gible personal property purchased for a certified life sciences
5 company established in section 5 of 23I of the General Laws on or
6 after the effective date of this act.

1 SECTION 51. Notwithstanding any general or special law to
2 the contrary, eligibility for a tax credit on user fees under para-
3 graph (2) of subsection (n) of section (6) of chapter 62 of the
4 General Laws and under subsection (f) of section 31M of
5 chapter 63 of the General Laws shall apply to user fees paid on or
6 after the effective date of this act.

1 SECTION 52. Subsection (d) of section 5 of chapter 23I of the
2 General Laws, as appearing in section 14, shall take effect on Jan-
3 uary 1, 2009.

1 SECTION 53. Sections 17, 19, 21, 24, 26, 28, 30, 32, and 34
2 shall take effect on January 1, 2009.

1 SECTION 54. Sections 18, 20, 22, 23, 25, 27, 29, 31, 33, and
2 35 shall take effect on December 31, 2018.